

## CHAPTER 59

## COUNTIES

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**59.001 Definitions.** In this chapter, unless the context clearly indicates to the contrary:

(1) "Board" means the county board of supervisors.

(2) "Clerk" means the county clerk.

(3) "Municipality" includes cities, villages and towns.

(4) "Treasurer" means the county treasurer.

**59.01 Body corporate.** (1) **STATUS.** Each county in this state is a body corporate, empowered to sue and be sued, to acquire and hold, lease or rent real and personal estate for public uses or purposes, including lands sold for taxes, to sell, lease and convey the same, including the authority to enter into leases or contracts with the state for a period of years for the uses and purposes specified in s. 23.09 (2) (d), to make such contracts and to do such other acts as are necessary and proper to the exercise of the powers and privileges granted and the performance of the legal duties charged upon it.

**Cross Reference:** See 75.35 and 75.69 for restrictions on the sale of tax deeded land.

**59.02 Powers, how exercised; quorum.**

(1) The powers of a county as a body corporate can only be exercised by the board thereof, or in pursuance of a resolution or ordinance adopted by it.

(2) Ordinances and resolutions may be adopted by a majority vote of a quorum or by such larger vote as may be required by law. Ordinances shall commence as follows: "The county board of supervisors of the county of .... does ordain as follows"

(3) A majority of the supervisors entitled to a seat on the board shall constitute a quorum. All questions shall be determined by a majority of the supervisors present unless otherwise provided.

**History:** 1977 c. 447.

County board's failure to use prescribed language of (2) did not invalidate ordinance. *Cross v. Soderbeck*, 94 W (2d) 331, 288 NW (2d) 779 (1980).

**59.025 County organization.** (1) **PURPOSE.** The purpose of this section is to improve the ability of county government to organize its administrative structure and to govern, within

constitutional limits. The constitution authorizes the legislature to establish one or more systems of county government. Consistent with this constitutional authority, it is the intent of the legislature to increase the organizational discretion which county government may exercise in the administration of powers conferred upon county boards of supervisors by the legislature.

(2) **INTENT AND CONSTRUCTION.** For the purpose of giving counties the largest measure of organizational autonomy compatible with the constitution and general law, it is hereby declared that this section shall be construed in favor of the rights, powers and privileges of counties to organize and administer county functions. The powers hereby conferred shall be in addition to all other grants and shall be limited only by express language but shall be subject to the constitution and such enactments of the legislature of statewide concern as shall with uniformity affect every county. In the event of conflict between this section and any other statute, this section to the extent of such conflict shall prevail.

(3) **CREATION OF OFFICES.** Except for the offices of supervisor, county executive and county assessor and those officers elected under section 4 of article VI of the constitution, the county board may:

(a) Create any county office, department, committee, board, commission, position or employment it deems necessary to administer functions authorized by the legislature.

(b) Consolidate, abolish or reestablish any county office, department, committee, board, commission, position or employment.

(c) Transfer some or all functions, duties, responsibilities and privileges of any county office, department, committee, board, commission, position or employment to any other agency including a committee of the board.

(4) **SELECTION PROCESS FOR OFFICES.** The county board may determine the method of selection of any county offices except for the offices of supervisors, county clerk, county treasurer, clerk of courts, county executive and county assessor and those officers elected under section 4 of article VI of the constitution. The

method may be by election or by appointment and, if by appointment, the county board shall determine the appointing authority, subject to ss. 59.031 and 59.032.

**(5) PART-TIME OFFICES.** The county board may designate any county office a part-time position.

**History:** 1973 c. 118; 1977 c. 220, 427, 447, 449; 1979 c. 260.

See note to 59.15, citing 63 Atty. Gen. 196

County board acting under (3) (b) and (c) and 59.15 (2) (a) can authorize the county administrator to appoint personnel at county health care facility. 63 Atty. Gen. 256.

County board, in county having a single county federated public library system, cannot abolish system board appointed under 43.19 (1) (a) and transfer functions and duties to committee of county board. 63 Atty. Gen. 317

See note to Art. IV, sec. 22, citing 63 Atty. Gen. 580

County board which creates solid waste management system and board may, under (3), withhold or take away functions specified in 59.07 (135). 65 Atty. Gen. 233.

County board has no power under (3) to authorize sheriff to employ a police legal advisor unless such person is an assistant district attorney or assistant county corporation counsel. 65 Atty. Gen. 245.

Sub. (3) (c) does not apply to county clerk. 67 Atty. Gen. 1.

See note to 66.433, citing 67 Atty. Gen. 297.

This section does not authorize a county board of supervisors to alter the number or the terms of office of commissioners of the county housing authority. 68 Atty. Gen. 35.

**59.03 Boards: composition; election; terms; compensation; compatibility.** The boards of the several counties shall be composed of representatives from within the county elected and compensated as provided in this section. Each county board shall act under sub. (2), (3) or (5), unless the county board adopts an ordinance, by a majority vote of the entire membership, to act under sub. (1). If a county board adopts such ordinance, a certified copy shall be filed with the secretary of state.

**(1) SELF-ORGANIZED COUNTIES.** (a) *Number of supervisors and apportionment of supervisory districts.* In each county having a population of at least 500,000, sub. (2) (a) and (b) shall apply. In counties having a population of less than 500,000 and more than one town, sub. (3) (a) to (c) shall apply. In counties having one town only, sub. (5) shall apply.

(b) *Terms.* The term of office of supervisors shall be 2 years. A county board may determine whether the terms shall be concurrent or staggered. Supervisors shall be elected at the election to be held on the first Tuesday in April next preceding the expiration of their respective terms and shall take office on the 3rd Tuesday in April following their election. If the board determines that supervisors shall serve staggered terms, the board shall, by ordinance, provide for a division of supervisors into 2 classes, one class to be elected for one-half of a full term and the other class for a full term and thereafter the supervisors shall be elected for a full term. The board shall publish the ordinance as a class 1 notice, under ch. 985, prior to

publication of the notice of the election at which supervisors are to be elected.

(c) *Compensation.* The method of compensation for supervisors shall be determined by the county board.

(d) *Vacancies.* A county board may determine the procedure for filling a vacancy.

**(2) MILWAUKEE COUNTY.** In each county having a population of at least 500,000:

(a) *Composition.* Following the 1970 federal decennial census and each decennial census thereafter, the secretary of state shall certify to the county board chairman the population of each town, village and city within each county having a population of at least 500,000. As soon as practicable, but not more than 120 days after receiving the 1970 population certification, the county board in each such county shall apportion county supervisory districts in such manner that each supervisor of 25 county board supervisors to be elected by the electors of each of the 25 supervisory districts thereafter established shall represent as nearly as practicable an equal number of persons but considering such other factors as continuity of interest, compactness, and contiguity of existing town, village and city lines. Such plan of apportionment of county supervisory districts shall be adopted in ordinance form and a certified copy shall be filed with the secretary of state. The 25 supervisory districts established for the 1972 spring election shall remain in effect until the 1980 federal decennial population census figures are certified at which time the county board shall itself determine the maximum number of county board supervisory districts to be established for the 1984 spring election.

(b) *Election; term.* Supervisors shall be elected for terms of 4 years at the election to be held on the first Tuesday in April next preceding the expiration of their respective terms, and shall take office on the 3rd Monday in April following their election.

(c) *Compensation.* Each supervisor shall be paid by the county an annual salary which shall be set by the county board. The board may provide additional compensation for the chairman. The salaries of supervisors in effect on June 21, 1961, shall remain the annual salary until changed by action of the board. Section 66.196 also applies to this paragraph.

**(3) OTHER COUNTIES.** (a) *Classification; maximum number of supervisors.* Counties having a population of less than 500,000 and more than one town are classified and entitled to a maximum number of county board supervisors as follows:

1. Counties having a population of less than 500,000 but at least 100,000 shall have no more than 47 supervisors.

2. Counties having a population of less than 100,000 but at least 50,000 shall have no more than 39 supervisors.

3. Counties having a population of less than 50,000 but at least 25,000 shall have no more than 31 supervisors.

4. Counties having a population of less than 25,000 and containing more than one town shall have no more than 21 supervisors.

5. If the population of any county is within 2% of the minimum population for the next most populous grouping under this paragraph, the county board thereof, in establishing supervisory districts, may employ the maximum number for such districts set for such next most populous grouping.

(b) *Creation of supervisory districts.* Within 90 days after every municipality in the county has adjusted its wards under s. 5.15, the county board in each such county shall establish and number supervisory districts, after a public hearing, in such a manner that by combining contiguous whole wards each supervisor shall represent as nearly as practicable an equal number of inhabitants according to the most recent decennial federal census of population. The chairperson of the county board shall file a certified copy of the districting plan with the secretary of state.

(c) *Changes during decade.* After the enactment of a plan of supervisory districts under par. (b), a municipal incorporation, annexation, detachment or consolidation may serve as a basis for altering between federal decennial censuses the boundaries of supervisory districts, in the discretion of the county board. The number of supervisory districts in the county shall not be changed by any action under this paragraph. Any plan of county supervisory districts enacted under par. (b) may be amended under this paragraph but shall remain in effect as amended until superseded by another plan enacted by the county board under said paragraph and filed with the secretary of state.

(d) *Election and term of supervisors.* Supervisors are county officers and shall be elected for 2-year terms at the election to be held on the first Tuesday in April in even-numbered years and shall take office on the 3rd Tuesday in April of that year. A candidate for the office of supervisor shall be a qualified elector and resident of his or her supervisory district at least 10 days prior to the earliest time for the commencement of the circulation of nomination papers.

(e) *Vacancies.* In the event of a vacancy on the board, the board chairman with the approval of the board shall appoint a person who is a qualified elector and resident of the supervisory district to fill the vacancy for the unexpired portion of the term to which the person is

appointed and until his or her successor is elected and qualified.

(f) *Compensation.* Each supervisor shall be paid a per diem by the county for each day he attends a meeting of the board. Any board may, at its annual meeting, by a two-thirds vote of all the members, fix the compensation of the board members to be next elected. Any board may also provide additional compensation for the chairman.

(g) *Mileage.* Each supervisor shall, for each day he attends a meeting of the board, receive mileage for each mile traveled in going to and returning from the meetings by the most usual traveled route at the rate established by the board pursuant to s. 59.15 as the standard mileage allowance for all county employes and officers.

(h) *Limitation on compensation.* Except for services as a member of a committee as provided in s. 59.06 no supervisor shall be paid for more days' attendance on the board in any year than is set out in this schedule: In counties having a population of less than 25,000, 20 days; at least 25,000 but less than 100,000, 25 days; more than 100,000 but less than 500,000, 30 days.

(i) *Alternative compensation.* As an alternative method of compensation, in counties having a population of less than 500,000, including those containing only one town, the board may at its annual meeting, by a two-thirds vote of the members entitled to a seat, fix the compensation of the supervisors to be next elected at an annual salary for all services for the county including all committee services, except the per diem allowance for services in acquiring highway rights of way set forth in s. 84.09 (4). The board may, in like manner, allow additional salary for the members of the highway committee and for the chairman of the board. In addition to the salary, the supervisors shall receive mileage as provided in par. (g) for each day's attendance at board meetings or for attendance at not to exceed 2 committee meetings in any one day.

(j) *Supplementary compensation.* The county board, in establishing an annual salary, may provide by ordinance for a per diem for all committee meetings attended in excess of 40 committee and board meetings.

(4) **COMPATIBILITY.** No county officer or employe is eligible to the office of supervisor, but a supervisor may also be a member of a committee, board or commission appointed or created under s. 59.025 (3), a town board, a mosquito control district, the common council of his or her city, the board of trustees of his or her village or the board of trustees of a county institution appointed under s. 46.18. A supervisor in a county having a population over 500,000 may not accept any compensation in addition to his

or her regular salary for serving as a member of any committee, board or commission appointed under s. 59.025 (3).

**(5) COUNTIES HAVING ONLY ONE TOWN.** In all counties containing one town only, the board shall consist of the members of the town board and one supervisor from every incorporated village. A supervisor from an incorporated village shall be elected at the time the other village officers are elected. A majority of the members shall constitute a quorum of the county board. Each supervisor shall receive compensation and mileage as provided in sub. (3) (f) and (g). The chairman of the county board elected pursuant to s. 59.05 (1) may be, but need not be, the same person who is elected chairman of the town board under s. 60.19 (1) (b).

**History:** 1971 c. 134, 211, 304; 1973 c. 118 ss. 2 to 4, 7; 1973 c. 334 s. 57; 1973 c. 336; 1975 c. 93 s. 113; 1975 c. 116, 200; 1977 c. 427; 1979 c. 34, 89, 122, 260

**Cross References:** See 17.21 (5) for provision as to filling vacancies on county boards in counties over 500,000.

See 66.196 for restriction on changes in compensation of county board members

The term "qualified elector" as used in 59.03 (2) (d), Stats 1969, (which provides that a candidate for the office of supervisor shall be a qualified elector and resident of his supervisory district at least 10 days prior to the earliest time for the commencement of the circulation of nomination papers), stands alone and is not modified by the resident requirements of the statute; hence the 21-year-old-age requirement need not exist sooner than the date of election, and only the residence requirement is subject to a prior time limitation. *Cross v. Hebl*, 46 W (2d) 356, 174 NW (2d) 737.

County board supervisor does not vacate office by moving from district if he continues to reside in county. 60 Atty. Gen. 55.

Sub (3) (a) does not establish a separate minimum for each class of county. Constitutionality of (3) (a) discussed. 60 Atty. Gen. 327.

A vacancy on the county board due to resignation may be filled by appointment by the county board chairman when county board is not in session. 61 Atty. Gen. 1.

Incumbent county supervisor must resign before county board may consider his appointment as highway commissioner. 61 Atty. Gen. 424.

A county board supervisor risks violations of 946.13 where he is appointed counsel for indigent defendants and fees exceed \$2,000 per annum. 62 Atty. Gen. 62, 118.

Under (3) (c) alteration of county supervisory district boundaries between decennial censuses is authorized only where ward boundaries originally relied upon in reapportioning the county have been subsequently altered by incorporation, annexation, detachment or consolidation. 63 Atty. Gen. 544.

See note to 59.06, citing 68 Atty. Gen. 73.

**59.031 County executive in populous counties. (1) ELECTION AND TERM OF OFFICE.** In each county having a population of 500,000 or more, a county executive shall be elected for a term of 4 years at the election to be held on the first Tuesday in April of each year in which county supervisors are elected, and he shall take office on the first Monday in May following his election. The county executive shall be elected from residents of the county at large by a majority vote of all qualified electors in the county voting in the election. The first election under this section in a county presently (1959) having a population of 500,000 or more shall be

held on the first Tuesday in April 1960. In any county which hereafter attains such population, such first election shall be held on the first Tuesday in April in the year following the official announcement of the federal census.

**(2) DUTIES AND POWERS.** The duties and powers of the county executive shall be, without restriction because of enumeration, to:

(a) Co-ordinate and direct by executive order or otherwise all administrative and management functions of the county government not otherwise vested by law in boards or commissions, or in other elected officers.

(b) Appoint the heads of all departments in the classified service of the county except where the statutes provide that the appointment shall be made by a board or commission or by other elected officers; but he or she shall, subsequent to August 27, 1959, also appoint all department heads where the law provides that the appointment shall be made by the chairperson of the county board or by the county board except as provided under s. 59.05 (1). Such appointment, except an appointment under s. 59.05 (1), shall not require the confirmation of the county board. The county executive may file charges for the removal, discharge or suspension of any persons so appointed.

(c) Appoint the members of all boards and commissions where such appointments are required after August 27, 1959 and where the statutes provide that such appointment shall be made by the county board or the chairman of the county board. All appointments to boards and commissions by the county executive shall be subject to the confirmation of the county board.

**(3) ADMINISTRATIVE SECRETARIES TO COUNTY EXECUTIVE; STAFF.** The county executive may appoint administrative secretaries who shall be exempt from county civil service and such additional staff assistants as the county board provides.

**(4) COMPENSATION OF COUNTY EXECUTIVE, DEPUTY, AND STAFF ASSISTANTS.** The county board shall fix the compensation of the county executive, his administrative secretary and his staff assistants, provided that the salary of the county executive shall be established at least 90 days prior to any election held to fill the office and may not be increased during his term of office nor decreased during such term without his consent.

**(5) MESSAGE TO THE COUNTY BOARD; SUBMISSION OF ANNUAL BUDGET.** The county executive shall annually and otherwise as may be necessary, communicate to the county board of supervisors the condition of the county, and shall recommend such matters to them for their consideration as he may deem expedient. Notwith-

standing any other provision of the law, he shall be responsible for the submission of the annual budget to the county board and may exercise the power to veto any increases or decreases in the budget under sub. (6).

**(6) COUNTY EXECUTIVE TO APPROVE OR VETO RESOLUTIONS OR ORDINANCES; PROCEEDINGS ON VETO.** Every resolution or ordinance passed by the county board shall, before it becomes effective, be presented to the county executive. If he approves, he shall sign it; if not, he shall return it with his objections, which objections shall be entered at large upon the journal and the board shall proceed to reconsider the matter. Appropriations may be approved in whole or in part by the county executive and the part approved shall become law, and the part objected to shall be returned in the same manner as provided for in other resolutions or ordinances. If, after such reconsideration, two-thirds of the members-elect of the county board agree to pass the resolution or ordinance or the part of the resolution or ordinance objected to, it shall become effective on the date prescribed but not earlier than the date of passage following reconsideration. In all such cases, the votes of the members of the county board shall be determined by ayes and nays and the names of the members voting for or against the resolution or ordinance or the part thereof objected to shall be entered on the journal. If any resolution or ordinance is not returned by the county executive to the county board at its first meeting occurring not less than 6 days, Sundays excepted, after it has been presented to him, it shall become effective unless the county board has recessed or adjourned for a period in excess of 60 days, in which case it shall not be effective without his approval.

**(7) REMOVAL FROM OFFICE; VACANCY, HOW FILLED.** The county executive may be removed from office by the governor for cause under s. 17.16. A vacancy in the office of county executive shall be filled temporarily, within 30 days of the date of the vacancy, by appointment by the chairperson of the board, subject to confirmation by the board, from among electors of the county. Within 7 days following the occurrence of the vacancy, the chairperson of the board shall order a special election to be held under s. 8.50 to fill the vacancy. If the vacancy occurs after October 31 but not later than 49 days prior to the day of the spring primary, the special election shall be held concurrently with the spring primary and election.

**(8) SUCCESSION IN OFFICE.** (a) In the event of the inability of the county executive to serve because of mental or physical disease, the powers and duties of the office shall devolve upon the

chairman of the county board until such time as the disability shall cease.

(b) In the event that a vacancy in the office of county executive occurs, the chairman of the county board shall immediately succeed to the office and assume the duties and responsibilities thereof until the county board has confirmed an appointment to the office pursuant to sub. (7).

**History:** 1975 c. 264; 1977 c. 257, 259; 1979 c. 260.

**59.032 County executive in other counties.**

**(1) ELECTION; TERM OF OFFICE.** Counties having a population of less than 500,000 may by resolution of the county board or by petition and referendum create the office of county executive or abolish it by petition and referendum. If the office of county executive is abolished, the person serving in the office shall complete the term to which elected. The county executive shall be elected the same as a county executive is elected under s. 59.031 (1) for a term of 4 years commencing with the 1st spring election occurring at least 120 days after the creation of the office and shall take office on the 3rd Tuesday in April of that year. Such petition and election shall follow the procedure provided for cities in s. 9.20 (1) to (6), except that in case of conflict this subsection shall control.

**(2) DUTIES AND POWERS.** The duties and powers of the county executive shall be, without restriction because of enumeration, to:

(a) Coordinate and direct, by executive order or otherwise, all administrative and management functions of the county government not otherwise vested by law in boards or commissions, or in other elected officers.

(b) Appoint the heads of all departments of the county except those elected by the people and except where the law provides that the appointment shall be made by a board or commission or by other elected officers; but he shall also appoint all department heads where the law provides that the appointment shall be made by the chairman of the county board or by the county board. Such appointments shall require the confirmation of the county board. The county executive may file, with the county board, charges for the removal, discharge or suspension of any person so appointed.

(c) Appoint the members of all boards and commissions where the law provides that such appointment shall be made by the county board or the chairman of the county board. All appointments to boards and commissions by the county executive shall be subject to the confirmation of the county board.

**(3) ADMINISTRATIVE SECRETARY TO COUNTY EXECUTIVE; STAFF.** The county executive may appoint an administrative secretary

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and such additional staff assistants as are deemed necessary.

**(4) COMPENSATION OF COUNTY EXECUTIVE, DEPUTY AND STAFF ASSISTANTS.** The county board shall fix the compensation of the county executive, his administrative secretary and his staff assistants, but the salary of an elected county executive shall be established at least 90 days prior to any election held to fill the office.

**(5) MESSAGE TO THE COUNTY BOARD; SUBMISSION OF ANNUAL BUDGET.** The county executive shall annually, and otherwise as necessary, communicate to the county board of supervisors the condition of the county, and recommend such matters to them for their consideration as the county executive deems expedient. Notwithstanding any other provision of the law, the county executive shall be responsible for the submission of the annual proposed budget to the county board and may exercise the power conferred under sub. (6) to veto any appropriation made by the county board in the budget. No money may be appropriated for any purpose unless approved by the county board. The failure of the county board, upon reconsideration under sub. (6), to approve any appropriation vetoed by the county executive does not operate to appropriate the amount specified in the proposed budget submitted by the county executive.

**(6) COUNTY EXECUTIVE TO APPROVE OR VETO RESOLUTIONS OR ORDINANCES; PROCEEDINGS ON VETO.** Every resolution or ordinance passed by the county board shall, before it becomes effective, be presented to the county executive. If he approves, he shall sign it; if not, he shall return it with his objections, which objections shall be entered at large upon the journal and the board shall proceed to reconsider the matter. Appropriations may be approved in whole or in part by the county executive and the part approved shall become law, and the part objected to shall be returned in the same manner as provided for in other resolutions or ordinances. If, after such reconsideration, two-thirds of the members-elect of the county board agree to pass the resolution or ordinance or the part of the resolution or ordinance objected to, it shall become effective on the date prescribed but not earlier than the date of passage following reconsideration. In all such cases, the votes of the members of the county board shall be determined by ayes and noes and the names of the members voting for or against the resolution or ordinance or the part thereof objected to shall be entered on the journal. If any resolution or ordinance is not returned by the county executive to the county board at its first meeting occurring not less than 6 days, Sundays ex-

cepted, after it has been presented to him, it shall become effective unless the county board has recessed or adjourned for a period in excess of 60 days, in which case it shall not be effective without his approval.

**(7) VACANCY, HOW FILLED.** The county executive may be removed from office by the governor for cause under s. 17.16. A vacancy in the office of the county executive shall be filled temporarily, within 30 days of the date of the vacancy, by appointment by the chairperson of the board, subject to confirmation by a majority of the board, from among electors of the county. Within 7 days following the occurrence of the vacancy, the chairperson of the board shall order a special election to be held under s. 8.50 to fill the vacancy. If the vacancy occurs after October 31 but not later than 49 days prior to the day of the spring primary, the special election shall be held concurrently with the spring primary and election.

**History:** 1975 c. 92, 199, 328, 421; 1977 c. 262; 1979 c. 260.

Counties may not have both a county administrator, under 59.033, and a county executive, under 59.032, at the same time. However, in order to preserve continuity of administration, an office of county administrator which is being replaced by that of a county executive may be retained during the period of transition between the establishment and subsequent election of the county executive. 59 Atty Gen. 1.

The term of office of a county executive, created pursuant to (1), begins on the first Monday in May following his election. He possesses the power to veto an apportionment plan established by the county board of supervisors. 60 Atty Gen. 202.

County executive does not have the authority to appoint members of the county highway committee. County board appoints such members by electing them. 61 Atty. Gen. 116.

County board is without power to abolish elective office of county executive. 61 Atty. Gen. 322.

While the county board probably has power to make its resolution creating the office of county executive contingent upon the result of a referendum, the better procedure would be for the board to itself fully act with respect to this important matter. 62 Atty. Gen. 14.

Where county board has designated the county executive as purchasing officer and county auditor, neither county clerk nor county board chairman has authority to issue a directive to department heads requiring purchase vouchers to be referred to the committees of jurisdiction rather than to the county executive. Salary of county executive cannot be increased so as to be effective during current term of such officer. 63 Atty. Gen. 220.

Ordinarily, where county has county executive, "operating" or "servicing" committees of county may not exercise day-to-day administrative supervision and direction of county departments or functions. 68 Atty. Gen. 92.

See note to 59.06, citing 68 Atty. Gen. 182.

**59.033 County administrator. (1) APPOINTMENT.** Counties having a population of less than 500,000 may by resolution of the county board or by petition and referendum create the office of county administrator. The county administrator shall be appointed by majority vote of the county board. Such petition and election shall follow the procedure provided for cities in s. 9.20 (1) to (6). If any member of the county board is appointed as county administrator, his status as a member of the county board is thereby terminated, except that in the

case of a vacancy in the office of county administrator by reason of removal, resignation or other cause, the county board may appoint any member of the county board as acting county administrator to serve for a period of 15 days while the county board is considering the selection of a county administrator.

**(2) DUTIES AND POWERS.** The duties and powers of the county administrator shall be, without restriction because of enumeration, to:

(a) Coordinate and direct by administrative order or otherwise all administrative and management functions of the county government not otherwise vested by law in boards or commissions, or in other elected officers.

(b) Appoint the heads of all departments of the county except those elected by the people and except where the statutes provide that the appointment shall be made by a board or commission or by other elected officers; but he shall also appoint all department heads where the law provides that the appointment shall be made by the chairman of the county board or by the county board. Such appointments shall require the confirmation of the county board. The county administrator may file with the county board, charges for the removal, discharge or suspension of any person so appointed.

(c) Appoint the members of all boards and commissions where the statutes provide that such appointment shall be made by the county board or the chairman of the county board. All appointments to boards and commissions by the county administrator shall be subject to the confirmation of the county board.

**(3) ADMINISTRATIVE SECRETARY TO COUNTY ADMINISTRATOR; STAFF.** The county administrator may appoint an administrative secretary and such additional staff assistants as necessary.

**(4) COMPENSATION OF COUNTY ADMINISTRATOR AND STAFF.** The county board shall fix the compensation of the county administrator, his administrative secretary and his staff assistants.

**(5) MESSAGE TO THE COUNTY BOARD; SUBMISSION OF ANNUAL BUDGET.** The county administrator shall annually, and otherwise as necessary, communicate to the county board of supervisors the condition of the county, and recommend such matters to them for their consideration as he deems expedient. Notwithstanding any other provision of the law, he shall be responsible for the submission of the annual budget to the county board.

**(6) QUALIFICATIONS FOR APPOINTMENT.** The county administrator shall be appointed solely on merit. In appointing the county administrator, the county board shall give due regard to

training, experience, administrative ability and general qualifications and fitness for performing the duties of the office, and no person shall be eligible to the office of county administrator, who is not by training, experience, ability and efficiency qualified and generally fit to perform the duties of such office. No weight or consideration shall be given by the county board to residence, nationality, or to political or religious affiliations.

**(7) REMOVAL.** The county board may remove the county administrator at any time that his conduct of the county administration becomes unsatisfactory, and engage a successor. The action of the county board in removing the county administrator shall be final.

**(8) VACANCY, HOW FILLED.** A vacancy in the office of the county administrator by reason of removal, resignation or other cause, shall be filled by appointment by majority vote of the county board.

County board can abolish office of county administrator by majority vote. 61 Atty. Gen. 322.

#### **59.04 Meetings; adjournment; absentees.**

**(1)** (a) Every board shall hold an annual meeting on the Tuesday after the 2nd Monday of November in each year for the purpose of transacting business. Any board may by its rules establish an earlier date during October or November for such annual meeting and may by rule establish regular meeting dates throughout the year at which to transact general business. When the day of the meeting falls on November 11, the meeting shall be held on the next succeeding day.

(b) The annual meeting may be adjourned by the clerk, upon the written request of a majority of the supervisors, to a day designated in the request, but not less than one week nor more than 3 weeks from the Tuesday after the 2nd Monday of November. Upon such adjournment being made, the clerk shall give each supervisor written notice of the time and place to which the annual meeting has been adjourned.

(c) The board, except in counties having a population of 500,000 or more, shall meet on the third Tuesday of each April to organize and transact business. At this meeting the board may transact any business permitted at the annual meeting, including the appointment of all county commissions and committees. The meeting may be adjourned in the same manner as the annual meeting.

**(2)** A special meeting of any board shall be held:

(a) Upon a written request of a majority of the supervisors delivered to the clerk, specifying the time and place of meeting. The time shall not be less than 48 hours from the delivery of the

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request. Upon receiving the request the clerk shall forthwith mail to each supervisor notice of the time and place of the meeting. Any special meeting may be adjourned by a vote of a majority of all the supervisors. The county board by ordinance may establish a separate procedure for convening the county board in a "declared emergency" as defined by county ordinance.

(b) For the purposes and in the manner prescribed in s. 31.06, with the right to adjourn the special meeting from time to time by a vote of a majority of all the supervisors entitled to a seat. The clerk shall mail written notice of the special meeting, specifying the time, place and purpose thereof, to each supervisor not less than 2 weeks before the day set for such meeting.

(3) All meetings shall be held in the county at places designated by the board. The board shall give adequate public notice of the time, place and purpose of each meeting.

(4) The board shall sit with open doors, and all persons conducting themselves in an orderly manner may attend. If any supervisor absents himself from any meeting of the board without good cause or without being first excused by the board, the chairman may issue a warrant requiring the sheriff or some constable forthwith to arrest him and bring him before the board. The expenses of the arrest shall be deducted from the pay of the member unless otherwise directed by the board. The board may punish its members for infraction of its rules by imposing the penalty provided therein.

**History:** 1971 c. 68, 307; 1975 c. 41, 109

County clerk can adjourn regular meeting of county board when requested by majority of elected members of the board 61 Atty. Gen. 352.

**59.05 Chairperson; vice chairperson; powers and duties.** (1) The board, at the first meeting after each regular election at which members are elected for full terms, shall elect a member chairperson. The chairperson shall perform all duties required of the chairperson until the board elects a successor. The chairperson may administer oaths to persons required to be sworn concerning any matter submitted to the board or a committee thereof or connected with their powers or duties. The chairperson shall countersign all ordinances of the board, and shall preside at meetings when present. When directed by ordinance the chairperson shall countersign all county orders, transact all necessary board business with local and county officers, expedite all measures resolved upon by the board and shall take care that all federal, state and local laws, rules and regulations pertaining to county government are enforced. Notwithstanding s. 59.031 (2) (b), the chairperson shall appoint the head of the county

auditing department, subject to confirmation by the county board.

(2) The board at the time of the election of the chairman shall also elect a member vice chairman for the same term who in case of the absence or disability of the chairman shall perform his duties. The board at the time of the election of the chairman may also elect a member 2nd vice chairman for the same term who in case of the absence or disability of the chairman and vice chairman shall perform the duties of the chairman. The board may provide for the payment of additional compensation to the vice chairmen.

(3) In case of the absence of a chairman for any meeting the members present shall choose a temporary chairman.

**History:** 1977 c. 259

County board cannot adopt a resolution which infringes on the power of succeeding board to elect its chairman and vice chairman 61 Atty. Gen. 108.

See note to 59.25, citing 63 Atty. Gen. 555, as to power to offer rewards.

**59.06 Committees; appointment; compensation.** (1) The board may, by resolution designating the purposes and prescribing the duties thereof and manner of reporting, authorize their chairman to appoint before June 1 in any year committees from the members of the board, and the committees so appointed shall perform the duties and report as prescribed in such resolution.

(2) Committeemen shall receive such compensation for their services as the board allows, not exceeding the per diem and mileage allowed to members of the board and such committee members shall receive such compensation, mileage and reimbursement for other expenses as the board allows for their attendance at any school, institute or meeting which the board directs them to attend. No supervisor shall be allowed pay for committee service while the board is in session, nor for mileage except in connection with services performed within the time herein limited. The number of days for which compensation and mileage may be paid a committee member in any year, except members of committees appointed to have charge of the erection of any county building, and except as otherwise provided by law, are limited as follows:

(a) In counties containing less than 25,000 population, to 20 days, not more than 10 of which shall be for services on any one committee, except that the board may increase the number of committee meetings as provided in par. (b) and similarly fix the compensation of the members for the additional meetings.

(b) In other counties, to 30 days for services on committees, except that the board may, by a two-thirds vote of the members present, increase

the number of days for which compensation and mileage may be paid in any year and fix the compensation for each additional day.

County board may not delegate appointment of committee members to committee of board 61 Atty Gen 214.

Section 59.06 (2) (intro) does not prohibit payment of additional mileage under 59.03 (3) (g). 68 Atty Gen 73.

See note to 59.032, citing 68 Atty Gen 92.

Resolutions of board creating special or standing committees under this section or creating rules of procedure relative to executive matters or the administration of law are subject to veto in counties under 500,000. 68 Atty Gen 182.

#### **59.065 Private sewage system ordinance.**

(1) Every governmental unit responsible for the regulation of private sewage systems, as defined under s. 145.01 (15), shall adopt an ordinance governing private sewage systems, as defined in s. 145.01 (14), which conforms with the state plumbing code. The ordinance shall apply to the entire area of the governmental unit responsible for the regulation of private sewage systems, as defined under s. 145.01 (15). After July 1, 1980, no city, village or town may adopt or enforce a private sewage system ordinance unless it is a governmental unit responsible for the regulation of private sewage systems, as defined under s. 145.01 (15).

(2) The governmental unit responsible for the regulation of private sewage systems, as defined under s. 145.01 (15), shall administer the private sewage system ordinance in accordance with s. 145.20 and the rules promulgated under s. 145.20.

History: 1979 c. 34, 221.

**59.07 General powers of board.** The board of each county may exercise the following powers, which shall be broadly and liberally construed and limited only by express language:

(1) **PROPERTY.** (a) *How acquired, purposes.* Take and hold land sold for taxes and acquire, lease or rent property, real and personal, for public uses or purposes of any nature, including without limitation acquisitions for county buildings, airports, parks, recreation, highways, dam sites in parks, parkways and playgrounds, flowages, sewage and waste disposal for county institutions, lime pits for operation under s. 59.873, equipment for clearing and draining land and controlling weeds for operation under s. 59.874, ambulances, acquisition and transfer of real property to the state for new collegiate institutions or research facilities, and for transfer to the state for state parks and for the uses and purposes specified in s. 23.09 (2) (d).

(b) *Control; actions.* Make all orders concerning county property and may commence and maintain actions to protect the interests of the county.

(c) *Transfers.* Direct the clerk to lease, sell or convey or contract to sell or convey any county

property, not donated and required to be held for a special purpose, on such terms as the board approves. In addition any county property may, by gift or otherwise, be leased, rented or transferred to the United States, the state, any other county within the state or any municipality or school district within the county. Oil, gas and mineral rights may be reserved and leased or transferred separately.

(d) *Construction, maintenance and financing of county-owned buildings and public works projects.* 1. Construct, purchase, acquire, lease, develop, improve, extend, equip, operate and maintain all county buildings, structures and facilities hereinafter in this subsection referred to as "projects", including without limitation swimming pools, stadiums, golf courses, tennis courts, parks, playgrounds, bathing beaches, bathhouses and other recreational facilities, exhibition halls, convention facilities, convention complexes, including indoor recreational facilities, dams in county lands, garbage incinerators, courthouses, jails, schools, hospitals and facilities for medical education use in conjunction with such hospitals, home for the aged or indigent, regional projects, sewerage disposal plants and systems, and including all property, real and personal, pertinent or necessary for such purposes.

2. Finance such projects, including necessary sites, by the issuance of mortgage bonds under s. 66.066, and payable solely from the income, revenues and rentals and fees derived from the operation of the project financed from the proceeds of said bonds. If any such project is constructed on a site owned by the county prior to the issuance of such bonds, the county shall be reimbursed from the proceeds of such bonds in the amount of not less than the reasonable value of such site. The reasonable value of such site shall be determined by the county board after having obtained written appraisals of value by 2 freeholders in the county having a reputation for skill and experience in appraising real estate values. Any bonds issued pursuant to this subsection shall not be included in arriving at the constitutional debt limitation.

3. Operate or lease such projects in their entirety or in part, impose fees or charges for the use of or admission to such projects. Such projects may include space designed for leasing to others if such space is incidental to the purposes thereof.

(e) *Leases to department of natural resources.* Lease lands owned by the county to the department of natural resources for game management purposes. Lands so leased shall not be eligible for entry under s. 28.11. Of the rental paid by the state to the county for lands so leased 60% shall be retained by the county and 40%

shall be paid by the county to the town in which said lands are located and of the amount received by the town, 40% shall be paid by the town to the school district in which said lands are located. The amount so paid by a town to a joint school district shall be credited against the amount of taxes certified for assessment in that town by the clerk of the joint school district under s. 120.17 (8), and the assessment shall be reduced by such amount. In case any leased land is located in more than one town or school district the amounts paid to them shall be apportioned on the basis of area. This paragraph shall not affect the distribution of rental moneys received on leases executed before June 22, 1955.

**(1m) PARKING AREAS.** Enact ordinances providing for establishing areas for parking of vehicles on lands owned or leased by the county; for regulating, permitting, prohibiting, restricting or limiting parking of vehicles on such areas or parts of such areas, including, without limitation by reason of enumeration, provision for parking in such areas or parts thereof for only certain purposes or by only certain personnel; for penalties for violations thereof, but not to exceed the sum of \$50 for each offense; and for the enforcement of such ordinances.

**(2) INSURANCE.** (a) *Liability and property damage.* Provide public liability and property damage insurance, either in commercial companies or by self-insurance created by setting up an annual fund for such purpose or by a combination thereof, covering without exclusion because of enumeration; motor vehicles, malfeasance of professional employes, maintenance and operation of county highways, parks, parkways and airports and any other county activities involving the possibility of damage to the general public.

(b) *Fire and casualty.* Provide fire and casualty insurance for all county property.

(c) *Employe insurance.* Provide for individual or group hospital, surgical and life insurance for county officers and employes and for payment of premiums therefor.

(d) *Bonds of officers and employes.* Provide for the protection of the county and public against loss or damage resulting from the act, neglect or default of county officers, department heads and employes and to contract for and procure bonds or contracts of insurance to accomplish that purpose either from commercial companies or by self-insurance created by setting up an annual fund for such purpose or by a combination thereof. Any number of officers, department heads or employes not otherwise required by statute to furnish an official bond may be combined in a schedule or blanket bond or contract of insurance. So far as applicable ss.

19.01 (2), (2m), (3), (4) (d) and (dd) and 19.07 shall apply to such bonds or contracts of insurance. The bond shall be for a definite period, and each renewal thereof shall constitute a new bond for the principal amount covering the renewal period.

**(3) ACCOUNTS; SETTLEMENT.** Examine and settle all accounts of the county and all claims, demands or causes of action against the county and issue county orders therefor. In counties having a population of less than 50,000, the board may delegate its power in regard to current accounts against the county to a standing committee where the amount does not exceed \$2,500 and in all counties having a population of 50,000 or more, the board may delegate its power in regard to current accounts against the county to a standing committee where the amount does not exceed \$5,000.

**(3m) INJURED COUNTY WORKERS.** May, in addition to any payments made under ch. 102, make further payment in such amounts as the board determines to any county employe injured at any time before January 1, 1937, while performing services for the county, in cases in which such further payments were made over a period of time following the injury and were based on a moral obligation to such employe.

**(4) RETIREMENT; DISABILITY.** In any county having a population of less than 500,000, by the affirmative vote of a majority of all supervisors entitled to a seat, elect:

(b) To provide that s. 66.191 (1) shall apply to such deputy sheriffs, undersheriffs or traffic policemen as the board designates.

**(5) GENERAL AUTHORITY.** Represent the county, have the management of the business and concerns of the county in all cases where no other provision is made, apportion and levy taxes and appropriate money to carry into effect any of its powers and duties.

**(6) PUBLIC RECORDS.** Prescribe the form and manner of keeping the records in any county office and the accounts of county officers.

**(7) PURCHASING AGENT.** Appoint a person or committee as county purchasing agent, and provide compensation for their services. Any county officer or supervisor may be the agent or a committee member. The purchasing agent shall provide all supplies and equipment for the various county offices and the board chairman shall promptly sign orders in payment therefor. The board may require that all purchases be made in the manner determined by it.

**(8) OFFICIAL SEALS.** Provide an official seal for the county and the county officers required to have one; and for the circuit court, with such inscription and devices as that court requires.

**(11) JOINT CO-OPERATION.** Join with the state, other counties and municipalities in a co-operative arrangement as provided by s. 66.30, including the acquisition, development, remodeling, construction, equipment, operation and maintenance of land, buildings and facilities for regional projects, whether or not such projects are located within the county; and enact ordinances as set forth in s. 66.433 (3) (c) if approved as part of such co-operative arrangement for an intergovernmental community relations-social development commission.

**(12) TRANSCRIPTS.** Procure transcripts or abstracts of the records of any other county affecting the title to real estate in such county, and such transcripts or abstracts shall be prima facie evidence of title.

**(13) PAYMENTS IN LIEU OF TAX.** (a) *Institutions, state farms, airports.* Appropriate each year to any municipality and school district in which a county farm, hospital, charitable or penal institution or state hospital, charitable or penal institution or state-owned lands used for agricultural purposes or county or municipally-owned airport is located, an amount of money equal to the amount which would have been paid in municipal and school tax upon the lands without buildings, if such land were privately owned. The valuation of such lands (without buildings) and computation of the tax shall be made by the board. In making such computation lands on which a courthouse or jail are located and unimproved county lands shall not be included.

(b) *County veterans' housing.* 1. If a county has acquired land and erected thereon housing facilities for rent by honorably discharged U.S. veterans of any war and the land and housing facilities are exempt from general taxation, the board may appropriate money and pay to any school district or joint school district wherein the land and housing facilities are located a sum of money which shall be computed by obtaining the product of the following factors:

a. The tax rate for school district purposes of the school years for which payment is made.

b. The ratio of the assessed valuation to the equalized valuation of the municipality in which the school district lies, multiplied by the actual cost incurred by the county for the acquisition of the land and improvements thereon used for such purposes.

2. In case of a joint school district, computation shall be made on the basis of the valuation of the several municipalities in which such school district lies. If school buildings are inadequate to accommodate the additional school population resulting from the county veterans' housing program, and the school dis-

trict cannot legally finance the necessary increased facilities, the board may appropriate money and grant assistance to the school district but the assistance shall be used solely to finance the purchase of land and the erection and equipment of the necessary additional facilities.

**(14) GRAVE MARKERS; VETERANS.** (a) Furnish upon the petition of 5 freeholders of any municipality in their county an appropriate metal marker for the grave of each soldier, sailor or marine who served with honor in the forces of the United States, buried within the municipality.

(b) The petitioners shall state in the petition the names of soldiers, sailors or marines buried in the municipality.

**(15) SHERIFF'S FAMILY PENSION.** Appropriate money to the family of any sheriff or his deputies killed while in the discharge of his official duties.

**(16) ZONING, BUILDING INSPECTOR.** For the enforcement of all laws, ordinances, rules and regulations enacted pursuant to s. 59.97, appoint a building inspector, define his duties and fix his term of office and compensation.

**(16m) ZONING; FILING FEES.** To enact ordinances establishing schedules of reasonable filing fees for the filing of petitions to amend county zoning ordinances and notices of appeal to the board of adjustment from determinations of county zoning authorities and providing for the charging and collection of such filing fees; such fees to be used to partially defray the expenses of holding hearings and giving notices of hearings prescribed in ss. 59.97 and 59.99.

**(17) DONATIONS, GIFTS AND GRANTS.** Accept donations, gifts or grants for any public governmental purpose within the powers of the county.

**(18) AMUSEMENTS, REGULATION.** (a) Exercise outside of cities and villages all the powers conferred on cities to regulate dance halls, road-houses and other places of amusement.

(b) Enact ordinances to regulate, control, prohibit and license dance halls and pavilions, amusement parks, carnivals, street fairs, bathing beaches and other like places of amusement. Such ordinances shall provide for license fees yielding as nearly as possible sufficient revenues for administering their provisions. Upon the passage of such an ordinance the board shall select a sufficient number of persons whose duty it shall be to supervise public dances according to assignments to be made by the board. Such persons while engaged in supervising public dances or places of amusement shall have the powers of deputy sheriffs, and shall make reports in writing of each dance visited to the clerk, and shall receive such compensation as the

board determines. Their reports shall be filed by the clerk and embodied by him in a report to the board at each meeting thereof. The board shall immediately revoke the license of any dance hall proprietor or manager if there is allowed at any such dance presence of intoxicated persons, or of children of 17 years of age or under unaccompanied by their parent or lawful guardian when intoxicating or fermented malt beverages are available for consumption on the premises, or if any of the ordinances are violated, and the board may enact an ordinance requiring the revocation of such dance hall license if the use of intoxicating liquor is permitted on the premises during the holding of a public dance. The chairman of the board, when the board is not in session, is authorized to issue licenses or to suspend the license of any person violating this law or any regulation adopted by the board; such issuance of licenses or the suspension of such license to be acted on by the board at its next meeting.

(c) Enact ordinances providing for a specified closing hour for places where soft drinks are sold.

(d) Ordinances enacted by a board under par. (b) or (c) shall not apply to any city or village which by ordinance regulates and controls such places.

**(18m) TRUCKERS, HAWKERS, PEDDLERS AND TRANSIENT MERCHANTS, LICENSING.** Except in counties having a population of 500,000 or more, to enact ordinances providing for the licensing of truckers, hawkers, peddlers and transient merchants, other than licensees under s. 440.51, and provide for the enforcement of the ordinances. The ordinances shall not provide for licensing of fuel vendors or those engaged in the delivery of petroleum products or farmers or truck gardeners who sell farm products grown by themselves.

**(19) CELEBRATIONS AND CONVENTIONS.** Appropriate money to defray the expense of national air shows or similar aeronautics activities held in the county, municipal commemorative or patriotic celebrations or observance, state or national conventions of war veterans, national conventions of fraternal associations, group entertainment for children on Halloween by county or municipal agencies within the county or of state or national conventions of county officers or employes or associations thereof or of bringing any of such conventions to the county.

**(20) CIVIL SERVICE SYSTEM.** Establish a civil service system of selection, tenure and status, and the system may be made applicable to all county personnel, except the members of the board, constitutional officers and members of boards and commissions. The system may also include uniform provisions in respect to classifi-

cation of positions and salary ranges, payroll certification, attendance, vacations, sick leave, competitive examinations, hours of work, tours of duty or assignments according to earned seniority, employe grievance procedure, disciplinary actions, layoffs and separations for cause subject to approval of a civil service commission or the board. The board may request the assistance of the department of administration and pay for such services, under s. 16.58.

**(22) TOWNS, ORGANIZATION, BOUNDARIES.** Organize, name, vacate and change the boundaries and names of the towns in their respective counties, fix the time and place of holding the first town meeting and make orders for the preservation of the records and papers of any vacated town. A copy of every order or ordinance changing the boundary or name of any town, duly certified by the county clerk, shall be promptly filed by him in the office of the register of deeds, who shall duly record and index the same without charge, and no such order or ordinance shall take effect until so recorded and indexed. No town shall be vacated unless a majority of all the members of the board so decide and a proceeding is taken under s. 60.05. No board, except in the counties of Ashland, Barron, Bayfield, Burnett, Douglas, Juneau, Marathon, Oconto, Polk and Shawano, and except as provided in s. 60.05, shall organize any town that at the time of being organized does not contain at least 125 inhabitants, at least 25 of whom shall have been actual electors of this state and resident within the proposed new town for 6 months prior to the time the organization takes effect.

**(23) WAR RECORDS.** Appropriate money for the collection, publication or distribution of war records.

**(24) FISH AND GAME.** Establish, maintain and operate fish hatcheries and facilities for raising game birds.

**(25) BASEBALL.** In counties having a population of 500,000 or more own and operate a professional baseball team, appropriate money for the purchase of a franchise for such team, and in the discretion of the board organize and maintain a nonprofit corporation for such team ownership and operation or participate with others in the formation and operation of such corporation.

**(26) RECREATION.** Create, promote and conduct and assist in creating, promoting and conducting recreational activities in the county which are conducive to the general health and welfare, and elect persons for such terms and salaries as may be determined, who shall exercise the powers and perform the duties given by the board. The board may provide for what

purpose and in what manner moneys appropriated pursuant to this subsection may be expended. Such persons may be designated "County Recreation Committee". At the annual meeting next after making the appropriation the board shall determine in what municipalities such activities were held and what other municipalities received benefits therefrom and determine the amount expended from the appropriation to make the programs or activities or benefits derived therefrom possible in each municipality and levy a tax upon the property of each municipality in accordance with such apportionment to reimburse the county for its expenditures, but no expenditure shall be made nor improvement ordered without the consent of the governing body of the municipality.

**(27) COUNTY BOARDS' ASSOCIATION.** By a two-thirds vote, purchase membership in an association of county boards for the protection of county interests and the furtherance of better county government.

**(28) PURCHASE OF PUBLICATIONS.** Purchase publications dealing with governmental problems and furnish copies thereof to supervisors, officers and employes.

**(29) SERVICE OFFICER.** Appropriate funds for the execution of the duties of the county veterans' service officer and the county veterans' service commission.

**(30) ADVERTISE COUNTY.** (a) Appropriate funds to advertise the advantages, attractions and resources of the county and to conserve, develop and improve the same. Any county may cooperate with any private agency or group in this work.

(b) In counties having a population of 500,000 or more, appropriate funds for the placing of advertisements in newspapers, periodicals or other publications listing radio and television broadcasting schedules, informing county residents of a radio or television appearance by a county official or employe, or advertising any program, function or activity sponsored by the county.

**(31) HISTORICAL SOCIETIES.** Appropriate money to any local historical society incorporated under s. 44.03 located in the county for the purpose of collecting and preserving the records of the early pioneers, the life of the Indians, the experience of persons in the military, and the salient historical features of the county.

**(32) COUNTY HISTORIAN.** Create the position of county historian. The historian shall collect and preserve the records of the Indians and the early pioneers, the experiences of military men and women and the records of their service; mark and compile data concerning places of historical interest in the county; and

perform such other duties relating to the collection, preservation, compilation and publication of historical data as the board prescribes. The board may provide the historian with a fireproof safe or vault in which to keep papers and documents, with clerical assistance and such other needs as will enable him to adequately perform his duties. The board may require reports.

**(33) PUBLIC MUSEUMS.** (a) Appropriate money for the establishment, expansion, operation and maintenance of public museums in the county, including, but not limited to, any public museum owned by a city.

(b) Acquire, establish, expand, own, operate and maintain a public museum in the county and appropriate money for such purposes.

(c) Notwithstanding pars. (a) and (b), in counties having a population of 500,000 or more the county board may contribute funds toward the operation of a public museum owned by a city of the 1st class in such county, as partial reimbursement for museum services rendered to persons residing outside such city and in a manner similar to the annual appropriation of funds by the county board under s. 43.57 toward the operation of the central library in such city.

**(34) HIGHWAY SAFETY.** Appropriate money to citizens' safety committees or to county safety commissions or councils for highway safety and patrol.

**(35) DRAINAGE DISTRICT BONDS.** Purchase drainage district bonds at market value or at a discount to salvage the equity of the county in the lands affected and to secure resumption of tax payments thereon and so permit the dissolution of the district.

**(36) FIRE PROTECTION.** Establish a fire department or, upon petition of two-thirds of the residents of any contiguous locality, pursuant to s. 60.29 (20) insofar as applicable, provide fire department service and protection for such residents as are otherwise unable to obtain service from a municipality as provided by s. 60.29 (20). The board shall determine the fee schedule to reimburse the fire departments and make rules and regulations for maintenance of service and equipment. An inspector may be appointed to inspect each fire department at least twice each year for proper maintenance. The contract may be terminated by either party upon giving a 90-day written notice thereof. The board may levy a tax upon all the real and personal property in the contiguous locality to reimburse the county for the fees and costs expended.

**(37) SURPLUS COMMODITY PLANS.** Adopt and participate in any surplus commodity absorption plan in connection with furnishing relief to needy persons within any municipality in

the county and appropriate money to carry out such plan.

**(38) SECONDHAND CAR DEALERS, JUNKING CARS.** License and regulate dealers in second-hand motor vehicles, wreckers of motor vehicles, or the conduct of motor vehicle junking. Such regulation shall not apply to any municipality which adopts an ordinance governing the same subject.

**(39) NURSING ASSOCIATIONS.** Appropriate money toward the support of organized and bona fide nursing associations in the county, such associations to have at least one qualified nurse.

**(41) AMBULANCES.** Purchase, equip, operate and maintain ambulances and contract for ambulance service for conveyance of the sick or injured and make reasonable charges for the use thereof.

**(42) RESCUE EQUIPMENT.** Appropriate money for the purchase of boats and other equipment necessary for the rescue of human beings and the recovery of human bodies from waters of which the county has jurisdiction under s. 2.04.

**(42m) EMERGENCY SERVICES FOR HEARING AND SPEECH IMPAIRED PERSONS.** In any county having a population of 200,000 or more the county board shall install in the sheriff's department a teletypewriter which shall be available to receive calls from hearing and speech impaired persons seeking emergency services. In cities having a population of 30,000 or more which are not contained in a county having a population of 200,000 or more, the city shall install a teletypewriter for the purposes of this subsection in either the police or fire department. If 2 or more cities having a population of 30,000 or more are contained in one county, the county board shall install the teletypewriter in the sheriff's department and no teletypewriter shall be required in the cities.

**(43) COUNTY COMMISSIONS.** Except in counties having a population of 500,000 or more, fix and pay the compensation of members of the county park commission and the county planning and zoning commission for attendance at meetings at a rate not to exceed the compensation permitted supervisors.

**(44) CORPORATION COUNSEL.** In counties not having a population of 500,000 or more, employ a corporation counsel, and fix his salary. The corporation counsel may, when authorized by a majority of the county board, appoint one or more assistant corporation counsels to aid him in the performance of his duties. The assistants so appointed shall have authority to perform all the duties of the corporation counsel. His employment may be terminated at any time

by a majority vote of all the members of the board. The duties of the corporation counsel shall be limited to civil matters and may include giving legal opinions to the board and its committees and interpreting the powers and duties of the board and county officers. Whenever any of the powers and duties conferred upon the corporation counsel are concurrent with similar powers or duties conferred by law upon the district attorney, the district attorney's powers or duties shall cease to the extent that they are so conferred upon the corporation counsel and the district attorney shall be relieved of the responsibility for performing such powers or duties. Opinions of the corporation counsel on all such matters shall have the same effect as opinions of the district attorney. The corporation counsel may request the attorney general to consult and advise with him in the same manner as district attorneys as provided by s. 165.25 (3).

**(46) POLICE POWERS OVER CERTAIN U.S. LANDS AND STRUCTURES.** In counties wherein the United States has built a structure extending into a lake or river, the board may by ordinance regulate the use of such a structure by the public consistent with reasonable safety requirements, but nothing contained in the ordinance shall permit any interference with the operations of the United States, its agents, employes or representatives in connection with the structure, and provide that any person who violates the ordinance shall forfeit to the county not to exceed \$100 for each offense, plus costs, and in default of payment shall be imprisoned not more than 30 days. Arrests for violation of the ordinance may be made by the sheriff or by any peace officer of the municipality wherein the structure is located.

**(47) CONTRACT WITH U.S. FOR CUSTODY OF FEDERAL PRISONERS.** Empower the sheriff or superintendent of the house of correction to contract with the United States to keep in the county jail or house of correction any person legally committed under U.S. authority, but not for a term exceeding 18 months.

**(48) DEPARTMENT OF ADMINISTRATION; POPULOUS COUNTIES.** In counties having a population of 500,000 or more, create a department of administration, provide for the appointment by the county executive of a director of such department and assign such administrative functions to the department as it deems appropriate, subject to the limitations of this subsection. No such function shall be assigned to the department where the performance of the same by some other county office, department or commission is required by any provision of the constitution or statutes of this state, except that administrative functions under the jurisdiction

of the county civil service commission or the county auditor may be so assigned notwithstanding sub. (20) and ss. 59.72, 59.84 and 63.01 to 63.17. The person holding the position of director of the department of administration, under the classified service, on June 16, 1974 shall continue in that capacity under civil service status until his death, resignation or removal from the position. Thereafter such director shall be appointed by the county executive in the unclassified civil service for a term of 4 years or less to be concurrent with the term of the county executive and subject to confirmation by the county board. An incumbent shall hold office until a new appointment is made by the county executive and confirmed by the county board.

**(49) BILLBOARD REGULATION.** Regulate, by ordinance, the maintenance and construction of billboards and other similar structures on premises abutting on highways maintained by the county so as to promote the safety of public travel thereon. Such ordinances shall not apply within cities and villages which have adopted ordinances regulating the same subject matter.

**(50) RIDING HORSES, REGULATION.** Provide by ordinance for the regulation, control, prohibition and licensing of horses kept for the purpose of riding, whether by private owners for their own use or by commercial stables, riding academies or clubs for hire; for the licensing and regulation of owners of riding horses and the regulation, control, prohibition and licensing of commercial stables keeping horses for riding purposes for hire. The board may revoke the license of any owner of a horse kept for the purpose of riding for violation of such ordinance after the filing of charges and notice and hearing thereon. Such ordinance may provide that the chairman of the board, when the board is not in session, shall be authorized to issue such license or to suspend such license of any person violating such ordinance; such issuance of license or the suspension of such license to be acted on by the board at its next meeting. Such ordinance may impose a penalty of not to exceed \$100 for each violation or in default of payment thereof, imprisonment for not exceeding 30 days. Such ordinances shall not apply within cities and villages which have adopted ordinances regulating the same subject matter.

**(51) BUILDING AND SANITARY CODES.** Adopt building and sanitary codes, make necessary rules and regulations in relation thereto and provide for enforcement of the codes, rules and regulations by forfeiture or otherwise. The codes, rules and regulations do not apply within cities, villages or towns which have adopted ordinances or codes concerning the same subject matter. "Sanitary code" does not include a

private sewage system ordinance adopted under s. 59.065.

**(52) MILWAUKEE COUNTY; SEWAGE, WASTE, REFUSE.** In any county having a population of 500,000 or more:

(a) Provide for the transmission and disposal of sewage from any of the county buildings, and for such purpose shall after October 1, 1965, annually pay to the municipality in which the buildings are situated for the transmission and disposal of sewage, such proportion of the expense thereof, as certified under s. 59.96, to any such municipality; such proportionate expense to be determined by the ratio which the amount of sewage contributed by any such buildings may bear to the total amount of sewage contributed by any such municipality to such system; but each municipality wherein county buildings are located, if payment is to be made, shall provide and furnish meters to determine the amount of sewage so contributed. This paragraph shall not apply to user charges billed to the county under s. 59.964.

(b) Engage in the function of the destruction or disposal of waste by providing dumpage facilities; acquire lands by purchase, lease, donation or right of eminent domain within such county and use the lands as dumpage sites for depositing, salvaging, processing, burning or otherwise disposing of the waste, and acquire land by purchase, lease or donation outside such county for said purposes where state and local regulations permit; construct and equip incinerators and other structures to be used for disposal of waste; maintain, control and operate dumpage sites; maintain, control and operate incinerators for burning such materials; utilize or dispose of by sale or otherwise heat or power reclaimed from incinerator facilities; sell all salvageable waste materials and by-products; levy a tax to create a working capital fund to maintain and operate dumpage facilities, construct, equip and operate incinerators and other structures for disposal of wastes; charge or assess reasonable fees to persons making use of such sites, incinerators or other structures for the disposal of waste; make charges approximately commensurate with the cost of services rendered to any municipality using the county waste disposal facilities; authorize payment to any municipality, in which county waste disposal facilities, including incinerators, are located, to cover the reasonable cost of fire fighting services rendered to such county when the occasion demands such service; contract with private collectors and municipalities and transporters to receive and dispose of waste other than garbage at dumpage and incinerator sites; levy taxes to provide funds to acquire sites and to construct and equip incinerators and other structures for disposal of

wastes; adopt and enforce ordinances, rules and regulations necessary for the orderly conduct of providing such dumpage facilities and services and provide forfeitures for the violation thereof. The charges for waste disposal services shall be determined by the board and shall include a reasonable charge for depreciation. In the determination of the charges the board shall give full consideration to any fees directly collected for the service. Waste disposal charges shall be apportioned pursuant to s. 70.63 to the respective municipalities receiving the service. The depreciation charges shall create a reserve for future capital outlays for waste disposal facilities. Before acquiring in such county any site to be used for dumping or the erection of an incinerator or other structure for the disposal of waste, a public hearing shall be held in the county following notice of hearing by publication as a class 3 notice, under ch. 985. The term "waste" as used in this paragraph includes, without restriction because of enumeration, garbage, ashes, municipal, domestic, industrial and commercial rubbish, waste or refuse material. The powers conferred by this paragraph are declared to be necessary to the preservation of the public health, welfare and convenience of the county.

**(54) MILWAUKEE COUNTY; CITY-COUNTY CRIME COMMISSION.** The board of any county having a population of 500,000 or more or the common council of any city of the first class however organized in such county, may appropriate money to defray in whole or in part the expenses of a city-county crime commission organized and functioning to determine methods of crime prevention in such county. All items of expense paid out of such appropriation shall be presented and paid on board vouchers as are claims against counties.

**(55) HOUSING FACILITIES, MILWAUKEE COUNTY.** In counties having a population of 500,000 or more, build, furnish and rent housing facilities to residents of the county. Such counties may borrow money or accept grants from the federal government for or in aid of any project to build, furnish and rent such housing facilities, to take over any federal lands and to such ends enter into such contracts, mortgages, trust indentures, leases or other agreements as the federal government may require. It is the intent of this subsection to authorize such counties to do anything necessary to secure the financial aid and the cooperation of the federal government in any undertaking by the county authorized by this subsection, including the authority to provide housing subsidies or allowances by participation in federal government housing programs.

**(56) HOUSING AUTHORITIES, COUNTIES HAVING ONLY ONE TOWN.** (a) The provisions of ss. 66.40 to 66.404 shall apply to any county having only one town, except as otherwise provided in this subsection or clearly indicated otherwise by the context, and any housing authority established under this subsection shall be entitled to participate in any state grants-in-aid for housing in the same manner as city housing authorities created under ss. 66.40 to 66.404.

(b) The powers and duties conferred and imposed by ss. 66.40 to 66.404 upon mayors and councils are hereby conferred upon county boards, and the powers and duties of specified city officials under those sections are hereby conferred upon county officials performing duties similar to the duties of such specified city officials.

(c) Eligible low-income residents of the county who are 62 years of age or older may be given first preference in the selection of tenants for housing provided under the authority of this section. The housing may, insofar as possible, be designed specifically for the foregoing class of residents.

(d) The area of operation of a housing authority created in and for a county pursuant to this subsection is all of the county for which it is created.

**(57) INTERGOVERNMENTAL COMMITTEES; APPROPRIATION.** In counties having a population of 500,000 or more, appropriate money to defray the expenses of any intergovernmental committee organized in the county with participation by the county board to study countywide governmental problems, and make recommendations thereon. All items of expense paid out of the appropriations shall be presented on vouchers signed by the chairman and secretary of the intergovernmental committee.

**(58) COUNTY ASSESSOR.** The county executive elected under s. 59.031 or the county administrator elected or appointed under s. 59.033 shall appoint a county assessor as prescribed in and subject to the limitations of s. 70.99, approve the hiring of the assessor's staff as prescribed in that section and otherwise comply with that section. In counties with neither a county executive nor a county administrator the appointment of the county assessor shall be the duty of the chairman of the county board subject to the approval of the county board and subject to the limitations of s. 70.99. The hiring of the assessor's staff shall be the duty of the county assessor subject to the limitations of s. 70.99.

**(59) COUNTY NATURAL BEAUTY COUNCILS.** Create a county natural beauty council as a committee of the county board, composed of such county board members, public members

and governmental personnel as the county board designates. The council shall advise governmental bodies and citizens in the county on matters affecting the preservation and enhancement of the county's natural beauty, and aid and facilitate the aims and objectives of the natural beauty council.

**(60) WATERSHED PROTECTION AREAS.** Appropriate money to assist in creating and developing watershed protection areas or projects beneficial to the county, which would include or benefit all or a portion of such county, and to pay all or part of said money to any agency of the federal or state government or to a soil and water conservation district, to be expended for such purposes.

**(61) UNIVERSITY CENTERS.** Appropriate money for the construction, remodeling, expansion, acquisition or equipping of land, buildings and facilities for a university of Wisconsin center if the operation of it has been approved by the board of regents.

**(62) PRINTING IN LOCAL TAX ROLLS, ETC.** Provide for the printing in field books, assessment rolls and tax rolls for local municipal officials, the descriptions of properties and the names of the owners thereof, but no town, city or village shall be subject to any tax levied to effect these functions where such town, city or village provides its own printing for said functions.

**(63) RADIO SERVICE FOR FIRE PROTECTION.** Appropriate money for the purpose of providing radio service for fire protection in the county, in the manner prescribed by the county board.

**(64) PEACE AND ORDER.** Enact ordinances to preserve the public peace and good order within the county.

**(65) RURAL NUMBERING SYSTEM.** Establish a rural numbering system in towns for the purpose of aiding in fire protection, emergency services, and civil defense, and appropriate and expend money therefor, under which:

(a) Each rural road and each home, business, farm or other establishment, may be assigned a name or number.

(b) Such names or numbers may be displayed on uniform signs posted on rural roads and intersections, and at each home, business, farm or other establishment.

(c) This subsection may be carried out in cooperation with any town or towns in the county.

**(66) IMPROVEMENT OF ARTIFICIAL LAKES.** Appropriate money for the purpose of maintaining, dredging and improving any artificial lake existing on July 1, 1955, all or a portion of which is adjacent to or within a county park, and for the acquisition of land required in connection therewith.

**(67) ADVISORY AND CONTINGENT REFERENDA.** Conduct a countywide referendum for advisory purposes or for the purpose of ratifying or validating a resolution adopted by the board contingent upon approval in the referendum.

**(68) FEES FOR ZONING APPEALS.** Establish a schedule of fees to be charged for the filing of petitions for amendment and notices of appeal under ss. 59.97 and 59.99, relating to zoning ordinances.

**(69) DOGS RUNNING AT LARGE.** Enact ordinances regulating the keeping, apprehension, impounding and destruction of dogs outside the corporate limits of any city or village, but such ordinances shall not conflict with ss. 174.01 and 174.042.

**(71) TRANSPORTATION STUDIES.** In counties having a population of 500,000 or more the county board may undertake the necessary studies and planning, alone or with other urban planning activities, to determine the total transportation needs of the county areas; to formulate a program for the most efficient and economical co-ordination, integration and joint use of all existing transportation facilities; and to study the interrelationship between metropolitan county area growth and the establishment of various transportation systems for such area in order to promote the most comprehensive planning and development of both. In pursuance of such undertaking the county board may employ the services of consultants to furnish surveys and plans, and may appropriate funds for the payment of the cost of such work and the hiring of consultants.

**(73) RETURN OF RENTS TO MUNICIPALITIES.** Return to municipalities all or any part of rent moneys received by the county under leases of county-owned lands.

**(74) RETURN OF FOREST INCOME TO TOWNS.** Return and distribute to the several towns in the county all or any part of any money received by the county from the sale of any product from county-owned lands which are not entered under the county forest law pursuant to s. 28.11.

**(75) COUNTY INDUSTRIAL DEVELOPMENT AGENCY.** May appropriate money for and create a county industrial development agency or to any nonprofit agency organized to engage or engaging in activities hereinafter enumerated, except in counties having a population of 500,000 or more no appropriation may be made to such a nonprofit agency, appoint an executive officer and provide a staff and facilities to promote and develop the resources of the county and of its component towns and municipalities. To this end the agency may, without restriction because of enumeration, develop data regarding the industrial needs, advantages and sites in the

county, acquaint the purchaser with the products of the county by promotional activities, coordinate its work with that of the county planning commission, the department of development and private credit development corporations and to do all things necessary to provide for the continued improvement of the industrial climate of the county.

**(76) REHABILITATION FACILITIES.** Establish and maintain rehabilitation facilities in any part of the county under the jurisdiction of the sheriff as an extension of the jail, or separate from the jail under jurisdiction of a superintendent, to provide any person sentenced to the county jail with a program of rehabilitation for such part of his sentence or commitment as in the opinion of the court will be of rehabilitative value to such prisoner.

**(77) MILWAUKEE COUNTY; CONTRACTUAL PERSONNEL SERVICES.** In counties having a population of 500,000 or more, may enter into a contract for a period not to exceed 2 years for the services of retired county employes who have reached the mandatory retirement age under the retirement system, provided such services shall not replace or duplicate an existing office or position in the classified or unclassified service nor be considered an office or position under s. 63.03.

**(80) BAIL BONDS.** The authority of the county board to remit forfeited bond moneys to the bondsmen or their heirs or legal representatives, where such forfeiture arises as a result of failure of a defendant to appear and where such failure to appear is occasioned by a justifiable cause, is hereby confirmed.

**(84) COUNTY DISPOSITION OF DEAD ANIMALS.** May remove any dead animal, for burial or disposition at public expense, found upon public or private property within the county, or may contract for such removal and burial or other disposition with any private rendering plant, but the cost of such removal or disposition may be recovered by the county from the owner of the carcass, if he is known. The county board may delegate powers and duties under this subsection to any political subdivision.

**(86) GUARDIAN OF OR CONSERVATOR FOR COUNTY HOSPITAL PATIENTS.** In any county having a population of 100,000 or more, the county board may authorize the county as a body corporate to act as guardian or conservator of the respective estates of patients in its county hospital or mental hospital, and also as guardians or conservators of the respective estates of residents of its county home or infirmary.

**(87) CIVIL AIR PATROL.** Appropriate funds or donate property and equipment to civil air patrol units in the county for the purpose of

enabling such civil air patrol units to perform their assigned missions and duties as prescribed by U.S. air force regulations.

**(89) HEATING AND AIR-CONDITIONING CONTRACTORS, MILWAUKEE COUNTY.** In counties having a population of 500,000 or more, for the purpose of protecting and promoting the general health and welfare of county residents, provide by ordinance for the regulation, control, prohibition and licensing of heating and air-conditioning contractors engaged in either soliciting work or any actual installation, maintenance or repair work within the geographic limits of such counties. The board may revoke any license after the filing of charges and notice of hearing thereon. Such ordinance in addition may impose a penalty of not to exceed \$100 for any violation or in default of payment thereof, imprisonment for not to exceed 30 days and each day's failure to comply with any provision of the ordinance shall constitute a separate offense. In addition the county may institute injunctive proceedings to enforce any provision of the ordinance. The board may also, within the ordinance, provide for the creation of an advisory board and prescribe its powers. Such ordinance shall apply within cities and villages which may have adopted ordinances regulating the same subject matter but the county ordinance shall not have jurisdiction over any building code matter in any municipality, nor shall the ordinance be applicable to licensed electrical contractors engaged in the installation, maintenance or repair of electrical heating and air-conditioning systems or to a public utility which is subject to ch. 196.

**(90) MILWAUKEE COUNTY; FEE FOR CERTAIN MARRIAGE CEREMONIES.** In counties having a population of 500,000 or more, enact an ordinance imposing a fee not to exceed \$15 to be paid in advance to the county treasurer for each marriage ceremony performed by a judge or a court commissioner specified in s. 765.16 (5) in the courthouse, safety building or children's court center during hours when any office in those public buildings is open for the transaction of business.

**(91) MILWAUKEE COUNTY; WORLD FESTIVAL CELEBRATION.** In counties having a population of 500,000 or more, appropriate money for planning and participation in a world festival celebration, or any similar program or activity designed to promote international commerce and culture.

**(92) AIRPORTS.** (a) Construct, purchase, acquire, develop, improve, extend, equip, operate and maintain airports and airport facilities and buildings, including without limitation because of enumeration, terminal buildings, hangars and parking structures and lots, and

including all property, real and personal, appurtenant or necessary for such purposes.

(b) Finance such projects, including necessary sites, by the issuance of mortgage bonds as provided in s. 66.066, and payable solely from the income, revenues and rentals derived from the operation of the project financed from the proceeds of said bonds. If any such project is constructed on a site owned by the county prior to the issuance of the bonds the county shall be reimbursed from the proceeds of the bonds in the amount of not less than the reasonable value of the site. The reasonable value of the site shall be determined by the county board after having obtained written appraisals of value by 2 freeholders in the county having a reputation for skill and experience in appraising real estate values. Any bonds issued pursuant to this subsection shall not be included in arriving at the constitutional debt limitation.

(c) Operate airport projects or lease such projects in their entirety or in part, and any such project may include space designed for leasing to others if the space is incidental to the purposes of the project.

**(93) SENIOR CITIZEN PROGRAMS; APPROPRIATION; COMMISSION ON AGING.** (a) Appropriate funds for the purpose of promoting and assisting county commissions on aging and senior citizens clubs and organizations within the county in their organization and activities. A county may cooperate with any private agency or group in such work.

(b) Create a county commission on aging. Appointments to the commission may include members and nonmembers of the board.

**(95) CULTURAL AND EDUCATIONAL CONTRIBUTIONS.** Appropriate money for cultural, artistic, educational and musical programs, projects and related activities, including financial assistance to nonprofit corporations devoted to furthering the cultivation and appreciation of the art of music or to the promotion of the visual arts.

**(96) COMPREHENSIVE HEALTH PLANNING.** A county or combination of counties may engage in comprehensive health planning, and county boards may appropriate county funds to an area-wide agency for such planning, whether the organization to be utilized is a public agency or a private, nonprofit corporation.

**(97) CHILD SUPPORT AND PATERNITY PROGRAM.** The county board of each county shall designate by board resolution any office, officer, board, department or agency, as the county designee. The department of health and social services shall contract with the county board or its designee to implement the child support and establishment of paternity program provided for

by Title IV of the federal social security act. The board or its designee shall implement and administer the child support and establishment of paternity program in accordance with the contract with the state department of health and social services. The district attorney, corporation counsel, family court commissioner, clerk of court and all other county officials shall cooperate with the county and the department as necessary to provide the services required under the program. The department shall ensure that such contracts are for amounts reasonable and necessary to assure quality of service. If a county refuses to name a local designee or fails to fully implement the program in accordance with department guidelines, the state may implement the program. The county shall charge the fee established by the department under s. 46.25 for services provided hereunder to individuals not receiving assistance under s. 49.19.

**(98) EMERGENCY ENERGY RELIEF.** Regardless of the type of general relief system used within a county, appropriate money for making payments to individuals or providing grants to community action agencies, cities, villages and towns to assist persons and families in the purchase of emergency energy supplies.

**(99) COMMUNITY ACTION AGENCIES.** Appropriate funds for promoting and assisting any community action agency designated by the U.S. community services administration pursuant to the community service act of 1974.

**(100) VICTIMS AND WITNESSES OF CRIMES.** Appropriate money for the implementation and operation of a program under s. 950.06.

NOTE: Chapter 219, laws of 1979, which created sub. (100), states in section 6 (3) that the act expires July 1, 1983.

**(101) INVESTMENT AUTHORITY DELEGATION.** Delegate by resolution or ordinance to the county treasurer any authority assigned by law to the county board to invest county funds. The county board may impose any restriction on the delegation or exercise of authority delegated under this subsection deemed desirable by the county board. If the county board delegates authority under this subsection, the board shall periodically review the county treasurer's exercise of the delegated authority.

**(102) GROUP HOMES.** Own or operate group homes, as defined in s. 48.02 (7).

**(103) ABSCONDING; WORTHLESS CHECKS.** Enact and enforce an ordinance to prohibit conduct which is the same as or similar to conduct prohibited by s. 943.21 or 943.24, or both, and provide a forfeiture for a violation of the ordinance.

**(104) LIBRARY THEFT.** Enact and enforce an ordinance to prohibit conduct which is the same as or similar to that prohibited by s. 943.61 and

provide a forfeiture for a violation of the ordinance.

(135) **SOLID WASTE MANAGEMENT.** The county board of any county may establish and operate a solid waste management system or participate in such system jointly with other counties, cities, villages or towns. Except in counties having a population of 500,000 or more, the county board or boards of supervisors of any county or combination of counties establishing a solid waste management system may create a solid waste management board to operate the system and such board, in any county that does not combine with another county, shall be composed of not less than 9 nor more than 15 persons of recognized ability and demonstrated interest in the problems of solid waste management, but not more than 5 of the board members may be appointed from the county board of supervisors. In any combination of counties, the board shall be composed of 11 members with 3 additional members for each combining county in excess of 2. Appointments shall be made by the county boards of supervisors of the combining counties in a manner acceptable to the combining counties, but each of the combining counties may appoint to the board not more than 3 members from its county board of supervisors. The term of office of any member of the board shall be 3 years, but of the members first appointed, at least one-third shall be appointed for one year; at least one-third for 2 years; and the remainder for 3 years. Vacancies shall be filled for the residue of the unexpired term in the manner that original appointments are made. Any board member may be removed from office by a two-thirds vote of the appointing authority. The solid waste management board may employ a manager for the system. The manager shall be trained and experienced in solid waste management. For the purpose of operating the solid waste management system, the board may exercise the following powers:

(a) Develop plans for a solid waste management system.

(b) Within such county or joint county, collect, transport, dispose of, destroy or transform wastes, including, without restriction because of enumeration, garbage, ashes, or incinerator residue; municipal, domestic, agricultural, industrial and commercial rubbish, waste or refuse material, including explosives, pathological wastes, chemical wastes, herbicide and pesticide wastes.

(c) Acquire lands by purchase, lease, donation or eminent domain, within the county, for use in the solid waste management system.

(d) Authorize employes or agents to enter upon lands to conduct reasonable and necessary investigations and tests to determine the suitability

of sites for solid waste management activities whenever permission is obtained from the property owner.

(e) Acquire by purchase, lease, donation or eminent domain such easements or other limited interests in lands as are desired or needed to assure compatible land uses in the environs of any site that is part of the solid waste disposal system.

(f) Establish operations and methods of waste management as are deemed appropriate. Waste burial operations shall be in accordance with sanitary landfill methods and the sites shall, insofar as practicable, be restored and made suitable for attractive recreational or productive use upon completion of waste disposal operations.

(g) Acquire necessary equipment, use equipment and facilities of the county highway agency, and construct, equip and operate incinerators or other structures to be used in the solid waste management system.

(h) Adopt and enforce ordinances necessary for the conduct of the solid waste management system and provide forfeitures for violations.

(i) Contract with private collectors or transporters or municipalities to receive and dispose of wastes.

(j) Engage in, sponsor or cosponsor research and demonstration projects intended to improve the techniques of solid waste management or to increase the extent of reuse or recycling of materials and resources included within the wastes.

(k) Accept funds derived from state or federal grant or assistance programs and enter into necessary contracts or agreements.

(l) Appropriate funds and levy taxes to provide funds for acquisition or lease of sites, easements, necessary facilities and equipment and for all other costs required for the solid waste management system except that no town, city or village which operates its own waste collection and disposal facility, or property therein, shall be subject to any tax levied hereunder to cover the cost of operation of these functions. Such appropriations may be treated as a revolving capital fund to be reimbursed from proceeds of the system.

(m) Make payments to any municipality in which county disposal sites or facilities are located to cover the reasonable costs of services rendered to such sites or facilities.

(n) Charge or assess reasonable fees, approximately commensurate with the costs of services rendered to persons using the services of the county solid waste management system. Fees may include a reasonable charge for depreciation which shall create a reserve for future capital outlays for waste disposal facilities or

equipment. All assessments for liquid waste shall be assessed by volume.

(o) Districts may be created and different types of solid waste collection or disposal services provided within them and different regulations and cost allocations may be applied to each service district. Costs allocated to such service districts may be provided by general tax upon the property of the respective districts or by allocation of charges to the cities, villages or towns whose territory is included within such districts.

(p) Utilize or dispose of by sale or otherwise any and all products or by-products of the solid waste management system.

(q) No recycling or processing plant for solid wastes may be constructed, altered or reconstructed in a recycling region established by the Wisconsin solid waste recycling authority without prior consultation with the authority.

**(136) SUBSIDY OF ABORTIONS RESTRICTED.** No county or agency or subdivision of the county may authorize funds for or pay to a physician or surgeon or a hospital, clinic or other medical facility for the performance of an abortion except those permitted under and which are performed in accordance with s. 20.927.

**History:** 1971 c. 19, 33, 37; 1971 c. 40 ss. 27, 93; 1971 c. 48, 125, 130, 152, 154, 211, 228, 231; 1971 c. 270 s. 104; 1971 c. 307; 1973 c. 90, 105, 198, 262, 305; 1975 c. 39, 78, 82; 1975 c. 94 s. 91 (2); 1975 c. 195, 224, 336; 1977 c. 2, 26, 29, 82, 245, 319, 323, 372, 382, 399, 418, 449; 1979 c. 21; 1979 c. 32 s. 92 (2); 1979 c. 34, 175, 219, 221, 233, 239, 245, 260; 1979 c. 289 s. 40; 1979 c. 355; 1979 c. 361 ss. 67, 112.

**Cross References:** As to payment of insurance premiums for employes, see also 66.185.

See 66.99 concerning appointment of a county weed commissioner.

A county can contract with employes for special reserved parking privileges in a county ramp. *Dane Co. v. McManus*, 55 W (2d) 413, 198 NW (2d) 667.

Under (44), a corporation counsel may apprise county board of the consequences, both civil and criminal, which result from specific actions of the board. *State v. Davis*, 63 W (2d) 75, 216 NW (2d) 31.

Authority of a county to enact and enforce a minimum standards housing code discussed in reference to 59.97 and 59.07 (51), Stats. 1969. 59 Atty. Gen. 248.

A carefully drawn county ordinance prohibiting the sale of "disposable" bottles and cans would not, on its face, exceed the police power granted in (64), and would not constitute an unreasonable burden on interstate commerce, although a careful consideration of relevant factors may result in a finding of unreasonableness on both counts. 60 Atty. Gen. 158.

County board may retain, at monthly salaries, attorneys to represent indigent defendants. 60 Atty. Gen. 180.

Milwaukee county has authority to acquire vacant land on open market and resell it at a reduced price to private parties under a contract of sale which requires purchasers to build low and middle income housing, especially for persons displaced by expressway construction. 60 Atty. Gen. 242.

Special county board committee to plan and coordinate need for planning trails for snowmobiles, bicycles, hiking, motorbikes, etc., discussed. 60 Atty. Gen. 259.

Whether the district attorney or the corporation counsel appears in children's court matters rests largely within the discretion of the presiding juvenile judge. 60 Atty. Gen. 264.

A county may not incorporate a restrictive covenant in its conveyances which prohibits the grantee from entering land under the forest crop law. 60 Atty. Gen. 272.

Limitations on power of county to sell property without calling for public bids discussed. 60 Atty. Gen. 425.

Sub (49) authorizes billboard regulations relating solely to highway safety. 61 Atty. Gen. 191.

Counties are without power to furnish equipment or supplies or to contract to do repair work on private roads and driveways. 61 Atty. Gen. 304.

Sub. (95) authorizes appropriation of county funds for promotion of the fine arts. 61 Atty. Gen. 316.

Counties lack authority to pay expenses of a person attending a meeting of the Wisconsin conservation congress. 61 Atty. Gen. 327.

County board is without authority to establish alternative retirement system. 61 Atty. Gen. 371.

See note to 62.11, citing 62 Atty. Gen. 84.

Counties under 500,000 do not have authority to create a county department of administration by resolution. 62 Atty. Gen. 91.

The county board of public welfare rather than the board of supervisors has the authority to appoint a county welfare director. 62 Atty. Gen. 114.

See note to 59.38, citing 63 Atty. Gen. 147.

Sub (1) is not sufficiently broad to permit county to furnish housing for elderly and low-income persons where specific statutes provide for furnishing of such housing. 63 Atty. Gen. 297.

Corporation counsel under (44) should provide legal advice and representation to 51.42 and 51.437 boards as well as to the county board. 63 Atty. Gen. 468.

See note to 59.25, citing 63 Atty. Gen. 555, as to power to offer rewards.

County board may not deny salary to a county treasurer during a period of sickness. Board does not have power to establish sick leave and vacation benefits for elected county officials. 65 Atty. Gen. 62.

Power of county to provide limited rescue functions in connection with ambulance service and to make reasonable charges therefor discussed. 65 Atty. Gen. 87.

The authority to establish salaries for the staff employed by a county's 51.42/51.437 board lies with such board, subject to the general budgetary control of the county board. 65 Atty. Gen. 105.

See note to 46.22, citing 65 Atty. Gen. 163.

Under (1) (d) 1, counties have authority to establish a hospital outpatient health facility which would be used to train general practitioners of medicine as a part of a program with the Medical College of Wisconsin. 65 Atty. Gen. 172.

County board which creates solid waste management system and board may under 59.025 (3), withhold or take away functions specified in 59.07 (135). 65 Atty. Gen. 233.

Nonuser municipalities may be taxed for the capital costs of a countywide solid waste management system under (135), but not for the operating costs. 67 Atty. Gen. 77.

Under (1) (c), counties may make gifts of land or interests in lands only to enumerated public entities. 67 Atty. Gen. 236.

Under (3), county board may require that all bills and claims be examined by it. 68 Atty. Gen. 38.

Sub. (64) does not authorize county boards to proscribe deer shining. 68 Atty. Gen. 81.

County board has authority under 59.07 (64) to enact ordinance prohibiting trespass that is similar to and consistent with 943.13. OAG 21-80.

## 59.071 Industrial development agencies.

**(1) SHORT TITLE.** This section shall be known and may be cited as the "Industrial Development Law".

**(2) FINDINGS.** It is found and declared that industries located in this state have been induced to move their operations in whole or in part to, or to expand their operations in, other states to the detriment of state, county and municipal revenue arising through the loss or reduction of income taxes, real estate and other local taxes, and thereby causing an increase in unemployment; that such conditions now exist in certain areas of the state and may well arise in other areas; that economic insecurity due to unemployment is a serious menace to the general

welfare of not only the people of the affected areas but of the people of the entire state; that such unemployment results in obligations to grant public assistance and in the payment of unemployment compensation; that the absence of new economic opportunities has caused workers and their families to migrate elsewhere to find work and establish homes, which has resulted in a reduction of the tax base of counties, cities and other local governmental jurisdictions impairing their financial ability to support education and other local governmental services; that security against unemployment and the preservation and enhancement of the tax base can best be provided by the promotion, attraction, stimulation, rehabilitation and revitalization of commerce, industry and manufacturing; that there is a need to stimulate a larger flow of private investment funds from banks, investment houses, insurers and other financial institutions; that means are necessary under which counties so desiring may create instrumentalities to promote industrial development and such purpose requires and deserves support from counties as a means of preserving the tax base and preventing unemployment. It is therefore declared to be the policy of this state to promote the right to gainful employment, business opportunities and general welfare of the inhabitants thereof and to preserve and enhance the tax base in counties and municipalities by the creation of bodies, corporate and politic, which shall exist and operate for the purpose of fulfilling the aims of this section and such purposes are hereby declared to be public purposes for which public money may be spent and the necessity in the public interest for the provisions herein enacted is declared a matter of legislative determination.

**(3) DEFINITIONS.** As used in this section, unless the context clearly indicates otherwise:

(a) "Industrial development agency" or "agency" is a public body corporate and politic created under this section, which agency shall have the characteristics and powers described in this section;

(b) "Industrial development project" is any site, structure, facility or undertaking comprising or being connected with or being a part of an industrial or manufacturing enterprise established or to be established by an industrial development agency;

(c) "Federal agency" includes the United States, the president of the United States and any department of or corporation, agency or instrumentality heretofore or hereafter created, designated or established by the United States.

**(4) FORMATION OF INDUSTRIAL DEVELOPMENT AGENCIES.** (a) Any county upon a finding by the county board that there is a need therefor may cause to be formed an agency which shall

be the sole agency and instrumentality of the county for the purposes stated in this section.

(b) Any adjoining counties upon a finding by their county boards that there is need therefor may jointly cause to be formed an agency which shall be the sole agency and instrumentality of the counties for the purposes stated in this section.

(c) The county board may appropriate such sums of money as are necessary or advisable for the benefit of the agency and prescribe the terms and conditions of such appropriation.

(d) The agency shall be a separate and distinct public instrumentality and body corporate and politic exercising public powers determined to be necessary by the state for the purposes set forth in sub (2). The agency shall have no power at any time to pledge the credit or taxing power of the state, any county, or any municipality or political subdivision, but all of its obligations shall be deemed to be obligations solely of the agency.

**(5) ORGANIZATION OF INDUSTRIAL DEVELOPMENT AGENCIES.** Such agencies shall have the following authority and shall be subject to the following restrictions:

(a) Proposed articles of incorporation and proposed bylaws shall be made available for inspection by any municipality within the county for a period of at least 30 days and shall thereafter be submitted to the county board for approval.

(b) The articles of incorporation shall be signed and acknowledged by persons designated by the county board or where counties join in the formation of the agency by the county boards of such counties and shall include at least 3 of the following from each county: the county executive, if there is one; the chairman of the county board; the chairman of the county board finance committee, if there is one; the county corporation counsel or district attorney in counties having no corporation counsel and the county auditor or county treasurer in counties having no county auditor, and only such persons so signing and acknowledging the articles of incorporation shall for the purposes of ch. 181 be the incorporators of the agency. When counties join in the formation of the agency, the articles of incorporation shall be recorded in the office of the register of deeds of each county.

(c) The provisions of ch. 181, except such as are inconsistent with this section and except as otherwise specifically provided in this section, shall be applicable to such agency. The articles of incorporation shall specifically state that the agency is a public instrumentality created under the industrial development law and organized in accordance with the requirements of ch. 181 and that the agency shall be subject to ch. 181 to the

extent that said chapter is not inconsistent with this section.

(d) The articles of incorporation shall provide for 2 classes of members who shall be designated as county members and public members and shall fix the number of each class, but the county members, at all times, shall constitute not less than a majority of the total authorized members. All members of each class shall be designated by the county board and shall hold office at the pleasure of the county board, except that in counties having a county executive, the members shall be designated by the county executive subject to confirmation by the county board. The agency shall be subject to dissolution and its corporate authority terminated upon resolution adopted by a majority of the county board, or of the county boards of each county where counties join in the formation of the agency whereupon the members shall proceed forthwith to dissolve the agency, wind up its affairs and distribute its remaining assets as provided in this section.

(e) The articles of incorporation shall provide for 2 classes of directors, each class to consist of such number as is provided in the bylaws. The county executive, if there is one, the chairman of the county board, the chairman of the county board finance committee, if there is one, the county corporation counsel or district attorney in counties having no corporation counsel and the county auditor or county treasurer in counties having no county auditor, shall be members of the board of directors by virtue of their office and as representatives of the county in which they hold such office and the county board of each county shall have the right to designate such additional county directors as the bylaws authorize. The county directors shall at all times constitute not less than a majority of the total authorized number of directors. Public directors shall be appointed by the county board and shall hold office at the pleasure of the county board.

(f) The corporate income of the agency shall not inure to any private person. Upon the dissolution of the agency all net assets after payment or provision for the payment of all debts and obligations shall be paid over to the county in which it is located or if counties have joined in the formation of the agency then to such counties in such shares as is provided in the articles of incorporation.

**(6) OPERATING AUTHORITY OF INDUSTRIAL DEVELOPMENT AGENCIES.** The agency is granted all operating authority necessary or incidental to the carrying out and effectuating the purposes of this section including, without limitation because of enumeration, the following:

(a) To grant financial aid and assistance to any industrial development project, which aid and assistance may take the form of loans either secured or unsecured, contracts of sale and purchase, leases and such other transactions as are determined by the agency.

(b) Within the boundaries of the county or the counties joining in the formation of the agency to acquire by purchase, lease or otherwise any real or personal property or any interest therein or mortgage or other lien thereon; to hold, improve, clear and redevelop any such property; to sell, assign, lease, subdivide and make such property available for industrial use and to mortgage or otherwise encumber the same.

(c) To borrow money and to execute notes, bonds, debentures and other forms of indebtedness; to apply for and accept advances, loans, grants and contributions and other forms of financial assistance from the federal, state or county government and from municipalities and other public bodies and from industrial and other sources; to give such security as is required by way of mortgage, lien, pledge or other encumbrance, but any obligations for the payment of money shall be issued by the agency only after approval in such manner as is determined by the county board or boards where counties have joined in the formation of the agency and is prescribed in the articles of incorporation or bylaws of the agency.

(d) To loan money for such period of time and at such interest rate as is determined by the agency and to be secured by mortgage, pledge or other lien or encumbrance on the industrial development project for which the loan was made or in other appropriate manner, which mortgage or other lien may be subordinate to a mortgage or other lien securing the obligations representing funds secured from independent sources which are used in the financing of the industrial development project and which mortgage or other lien and the indebtedness secured thereby may be sold, assigned, pledged or hypothecated.

(e) To enter into any contracts deemed to be necessary or helpful and in general have and exercise all such other and further authority as is required or necessary in order to effectuate the purposes of this section.

**(7) EXAMINATION AND AUDIT.** The accounts and books of the agency, including its receipts, disbursements, contracts, mortgages, investments and other matters relating to its finances, operation and affairs shall be examined and audited annually by the county auditor, by the department of revenue under s. 73.10 or by an independent certified public accountant designated by the county board or boards where

counties have joined in the formation of the agency.

(8) **LIMITATION OF POWERS.** (a) An industrial development agency shall not enter into any transaction which entails moving an industrial plant or facility from a municipality within the county to another location outside such municipality if the common council or the village board of the municipality where such plant or facility is then situated, within 45 days after receipt of written notice from the agency that it proposes to enter into such transaction, objects thereto by resolution adopted by a two-thirds vote of its council or board and approved by its mayor or president.

(b) The state does hereby pledge to and agree with the United States and any other federal agency that if any federal agency constructs, loans or contributes any funds for the construction, extension, improvement or enlargement of any industrial development project, or any portion thereof, the state will not alter or limit the rights and powers of the agency in any manner which would be inconsistent with the due performance of any agreements between the agency and any such federal agency, and the agency shall continue to have and may exercise all powers herein granted, so long as the same is necessary or desirable for the carrying out of the purposes of this section.

(9) **CONSTRUCTION.** This section shall be construed liberally to effectuate the purposes hereof and the enumeration therein of specific powers shall not operate to restrict the meaning of any general grant of power contained in this section or to exclude other powers comprehended in such general grant.

**History:** 1971 c. 108 ss. 5, 6; 1971 c. 125 s. 523; 1979 c. 102 s. 236 (4)

An industrial development corporation is a separate municipality or public agency for purposes of the Wisconsin retirement fund and public employees social security fund. 60 Atty Gen 66.

**59.073 County consumer protection agency. (1)** In this section:

(a) "Consumer complaint" means any complaint received by a consumer protection agency from an individual.

(b) "County consumer protection agency" means an agency created or designated under this section.

(2) Any county may create or designate a consumer protection agency which may:

(a) Maintain an office in the county.

(b) Receive and maintain records of consumer complaints.

(c) Upon receipt of a consumer complaint, conduct an investigation to determine the validity of the complaint.

(d) Notify the person responsible for the cause of the complaint of the nature of the complaint.

(e) Assist in the resolution of the complaint.

(f) Refer complaints:

1. To the appropriate state department or independent agency; or

2. To the district attorney.

(g) Maintain follow-up records on all complaints referred to state departments or independent agencies or the district attorney.

(3) A county consumer protection agency created under this section shall report at least once every 6 months to the county board on the actions and activities of the agency.

**History:** 1977 c. 251

**59.075 County housing authorities. (1)**

Sections 66.40 to 66.404 shall apply to counties, except as otherwise provided in this section, or as clearly indicated otherwise by the context.

(2) The powers and duties conferred and imposed by those sections upon mayors and councils are conferred upon county boards, and the powers and duties of specified city officials under those sections are conferred upon county officials performing duties similar to the duties of such specified city officials.

(3) The area of operation of a housing authority created in and for a county is all of the county for which it is created, but a county housing authority may not undertake any housing project within the boundaries of any city or village unless a resolution has been adopted by the governing body of the city or village, and by any housing authority which has been created therein, declaring that there is need for the county housing authority to exercise its powers within that city or village.

(4) County housing authorities created under this section are urged to utilize those provisions of the federal housing laws whereby private developers may acquire land, build housing projects according to federal standards and turn them over to such housing authorities for due consideration.

County may appropriate money to county housing authority, but such authority is separate body politic and county cannot pay per diem or other compensation to commissioners. 62 Atty Gen 303.

A county cannot use its funds and employes to improve, reconstruct or repair homes of private citizens who do not qualify for aid under ch. 49 without utilizing a county housing authority. 64 Atty Gen 106.

**59.077 Defense of indigents.** In each county, the county board may enact an ordinance for indigency determinations under s. 977.07 (1). The county board may adopt a resolution altering its coverage in the state pub-

lic defender program under s. 977.08 (5) (e) or (f).

History: 1979 c. 356.

**59.08 Public work, how done; public emergencies. (1)** All public work, including any contract for the construction, repair, remodeling or improvement of any public work, building, or furnishing of supplies or material of any kind where the estimated cost of such work will exceed \$5,000 shall be let by contract to the lowest responsible bidder. The contract shall be let and entered into pursuant to s. 66.29, except that the board may by a three-fourths vote of all the members entitled to a seat provide that any class of public work or any part thereof may be done directly by the county without submitting the same for bids. This section does not apply to highway contracts which the county highway committee is authorized by law to let or make.

**(2)** The provisions of sub. (1) are not mandatory for the repair or reconstruction of public facilities when damage or threatened damage thereto creates an emergency, as determined by resolution of the county board, in which the public health or welfare of the county is endangered. Whenever the county board by majority vote at a regular or special meeting determines that an emergency no longer exists, this subsection no longer applies.

History: 1975 c. 244.

**59.083 Consolidation of municipal services, home rule, metropolitan district. (1)** Except as elsewhere specifically provided in these statutes, the county board of any county is hereby vested with all powers of a local, legislative and administrative character, including without limitation because of enumeration, the subject matter of water, sewers, streets and highways, fire, police, and health, and to carry out these powers in districts which it may create for different purposes, or throughout the county, and for such purposes to levy county taxes, to issue bonds, assessment certificates and improvement bonds, or any other evidence of indebtedness. The powers hereby conferred may be exercised by the county board in any town, city or village, or part thereof located in such county upon the request of any such town, city or village, evidenced by a resolution adopted by a majority vote of the members-elect of its governing body, designating the particular function, duty or act, and the terms, if any, upon which the same shall be exercised by the county board or by a similar resolution adopted by direct legislation in the town, city or village in the manner provided in s. 9.20. The resolution shall further provide whether the authority or function is to be exercised exclusively by the

county or jointly by the county and the town, city or village, and shall also find that the exercise of such power by the county would be in the public interest. Upon the receipt of the resolution, the county board may, by a resolution adopted by a majority vote of its membership, elect to assume the exercise of such function, upon the terms and conditions set forth in the resolution presented by the town, city or village.

**(2)** The county board of any such county may, by a resolution adopted by a majority of its membership, propose to the towns, cities and villages located in such county, or any of them, that it offers to exercise such powers and functions therein in order to consolidate municipal services and functions in said county. Such resolution shall designate the particular function, duty or act and the terms and conditions, if any, upon which the county board will perform the same. The powers conferred in sub. (1) and designated in such resolution may thereafter be exercised by the county board in each such town, city or village which shall accept such proposal by the adoption of a resolution by a majority vote of the members-elect of its governing body or by direct legislation in the manner provided in s. 9.20.

**(3)** Whenever the request under sub. (1) or acceptance under sub. (2) of a town, city or village shall be by resolution of its governing board, such request or acceptance shall not go into effect until the expiration of 60 days from the adoption of the resolution. If a petition pursuant to s. 9.20 for direct legislation on such request or acceptance shall be filed before the expiration of said 60 days, the resolution of the governing board shall be of no effect but the request or acceptance of such town, city or village shall be determined by such direct legislation.

**(4)** After and upon the adoption of resolutions by the county board and subject to sub. (3) by one or more towns, cities or villages either as provided in sub. (1) or (2) the county board shall have full power to legislate upon and administer the entire subject matter committed to it, and among other things, to determine, where not otherwise provided by law, the manner of exercising the power thus assumed.

**(5)** The town, city or village concerned may enter into necessary contracts with the county, and appropriate money to pay to the county the reasonable expenses incurred by it in rendering the services assumed. Such expenses may be certified, returned and paid as are other county charges, and in the case of services performed pursuant to a proposal for the consolidation thereof initiated by the county board and made

available to each town, city and village in the county on the same terms, the expenses thereof shall be certified, returned and paid as county charges; but in the event that each and every town, city and village in the county shall accept such proposal of the county board the expenses thereof shall be paid by county taxes to be levied and collected as are other taxes for county purposes. Said towns, cities and villages are vested with all necessary power to do the things herein required, and to do all things and to exercise or relinquish any of the powers herein provided or contemplated. The procedure herein provided for the request or acceptance of the exercise of the powers conferred on the county board in cities and villages is hereby prescribed as a special method of determining the local affairs and government of such cities and villages pursuant to section 3 of article XI of the constitution.

(6) The powers conferred by this section shall be in addition to all other grants of power and shall be limited only by express language.

History: 1977 c. 29.

**59.09 Publication of ordinances and proceedings.** (1) Whenever any county board passes any ordinance under this chapter the county clerk shall immediately publish it as a class 1 notice, under ch. 985; and such clerk shall procure and distribute copies of such paper to the several town clerks, who shall file the same in their respective offices.

(2) Said board shall, by ordinance or resolution, provide for publication in one or more newspapers in the county as a class 1 notice, under ch. 985, a certified copy of all its proceedings had at any meeting, regular or special; said publication to be completed within 60 days after the adjournment of each session.

(3) Said board may at any meeting, regular or special, provide by resolution for the publication in pamphlet form by the lowest and best bidder therefor, of a sufficient and designated number of copies of its duly certified proceedings, for general distribution.

(4) Said board may order public notices relating to tax sales, redemption and other affairs of the county to be published in a newspaper printed in any other than the English language, to be designated in such order, whenever they shall deem it necessary for the better information of the inhabitants thereof, and it shall appear from the last previous census that one-fourth or more of the adult population of such county are of a nationality not speaking the English language, and that there shall have been a newspaper published therein continuously for one year or more in the language spoken by such nationality; but all such notices shall also be

published in a newspaper published in the English language as provided by law. The compensation for all such publications shall be paid by the county ordering the same, and shall be the same as that prescribed by law for publication in the English language; and no extra charge shall be allowed for translation in any case. No irregularity, mistake or informality in any such publication shall affect the validity or regularity of any tax sales, redemptions or other legal proceedings.

Sub. (1) discussed in reference to effect of failure to distribute and requirements of distribution and publication. 62 Atty. Gen. 81.

**59.10 Neglect of duty.** Any supervisor who refuses or neglects to perform any of the duties which are required of him by law as a member of the county board of supervisors, without just cause therefor, shall for each such refusal or neglect forfeit a sum of not less than fifty nor more than two hundred dollars.

See note to 19 45, citing 66 Atty. Gen. 148.

**59.11 County seat; change.** (1) The county seat shall be fixed and designated by the county board at the first regular meeting after the organization of any county; and no county seat shall be changed except as provided in this section.

(2) If two-fifths of the legal voters of any county, to be determined by the registration or poll lists of the last previous general election held therein, the names of which voters shall appear on some one of the registration or poll lists of such election, present to the county board a petition signed by them asking a change of the county seat to some other place designated in such petition, such board shall submit the question of removal of the county seat to a vote of the qualified voters of the county. Such election shall be held only on the day of the general election, notice thereof shall be given and the same shall be conducted as in the case of the election of officers on that day, and the votes shall be canvassed, certified and returned in the same manner as other votes at such election. The question to be submitted shall be "Shall the county seat of \_\_\_\_\_ county be removed to \_\_\_\_\_," and the question shall appear on a separate ballot.

(3) If a majority of all the votes cast at such election on that subject are in favor of the proposed change, the chairman of the county board shall certify the same, with the attestation of the county clerk, to the governor, who thereupon shall issue his proclamation to that effect and cause the same to be published in the official state paper, and from the date of such publication the place so designated shall be the county seat of such county, and the county board shall

not again submit the question of removal within five years.

(4) However, when a county seat has been established in one place for a period of fifteen years or more, and the county has there erected permanent buildings of the value of not less than ten thousand dollars, the county seat shall not be removed, nor shall any application for its removal be submitted to a vote of the electors of the county unless a petition signed by at least one-half of the resident freeholders of the county as evidenced by the recorded deeds in the office of the register of deeds of the county, in favor of such removal, shall first be presented to the county board and filed in the office of the county clerk; and no such election to change any county seat shall be held for a period of five years after the year in which a courthouse or other county building costing three thousand dollars or more was built at the county seat and occupied for county purposes.

History: 1977 c. 427.

**59.12 County officers; terms.** A county clerk, treasurer, sheriff, coroner, clerk of circuit court, district attorney, register of deeds and surveyor, who shall be a registered land surveyor, shall be elected in each county for full terms at the general election held in each even-numbered year. The regular term of office of each such officer shall commence on the first Monday of January next succeeding his election and shall continue 2 years and until his successor qualifies. In lieu of electing a surveyor in any county, the county board may, by resolution designate that the duties under ss. 59.60 and 59.635 be performed by any registered land surveyor employed by the county. In any county containing one town only, the county board may, by resolution, designate any county office a part-time position, combine 2 or more county offices, and, if concurred in by the town board, combine the offices of county clerk and town clerk and any other county and town offices, provided that the offices combined are not incompatible and the combination is not expressly forbidden by law. If the town board so concurs, the election shall be for the combined office and no separate election for the town office shall be held until after the county board has by resolution decided to abandon such combination and the town board has concurred by resolution. In counties having a population of 500,000 or more, no county coroner or county surveyor shall be elected. In any county in which a medical examiner system is instituted, no coroner shall be elected.

History: 1973 c. 272.

**59.125 Eligibility for county office.** No person is eligible to become a candidate for county elective office who is not a resident of the county at the time of filing nomination papers. In addition, candidates for county supervisor to which s. 59.03 (3) (d) applies shall be qualified as provided in that paragraph.

History: 1977 c. 427, 447.

**59.13 Official oaths and bonds. (1)** Each county officer named in this chapter, except county supervisors, shall execute and file an official bond and take and file the official oath within 20 days after receiving official notice of election or appointment, or if not officially notified, within 20 days after the commencement of the term for which elected or appointed. Every county supervisor shall take and file the official oath within 20 days after receiving official notice of election or appointment, or if not officially notified, within 20 days after the commencement of the term for which elected or appointed. Every deputy appointed by any such officer shall take and file the official oath and if the deputy neglects shall forfeit \$100. Such official bonds shall be in sums and with sureties, as follows:

(a) County clerk, not less than two thousand dollars.

(b) County treasurer, if the bond is furnished by individual sureties, not less than the amount nor exceeding twice the amount of all taxes directed by the county board to be levied therein and to be received by the treasurer during the ensuing year, with 3 or more sureties; or, if the bond is furnished by a surety company in an amount not less than 10 per cent of all taxes directed by the county board to be levied therein, and to be received by the treasurer during the ensuing year, or \$500,000, whichever is smaller.

(c) Sheriff, not less than five nor more than twenty-five thousand dollars, with not less than three sureties.

(d) Coroner, not less than five hundred nor more than ten thousand dollars, with not less than two sureties.

(e) Clerk of the circuit court, not less than five thousand dollars, with two or more sureties.

(f) District attorney, one thousand dollars.

(g) Register of deeds, in counties containing less than 150,000 population, \$3,000, with 2 or more sureties. In counties containing 150,000 or more population, not less than \$3,000, with 2 or more sureties, conditioned for the accuracy of his work and the faithful, correct and impartial performance of his duties, and in addition thereto a bond of not less than \$10,000, with 2 or more sureties, conditioned for the faithful accounting for and paying over to the county

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treasurer all moneys which may come into his hands as such officer, or into the hands of his deputy or assistants for him.

(h) Surveyor, \$5,000.

(i) County abstractor, five thousand dollars, with two or more sureties.

(2) Each such official bond shall be in sum fixed by law; or if not so fixed, in sum fixed by resolution of the county board, within the limitations prescribed by law, if any, at the annual meeting in November prior to the commencement of the term of office of the particular officer. Both the bond and the sufficiency of the sureties thereto shall be approved by a committee consisting of the chairman and not less than two other members of the county board who shall report in writing their action on all bonds.

(3) Each such bond shall be guaranteed by the number of personal sureties prescribed by law, or if not prescribed, by the number fixed by the county board within the limitations, if any, prescribed by law, or by a surety company as provided by s. 632.17 (2). In the case of the county clerk, county treasurer and county abstractor the county board may by resolution require them to furnish bonds guaranteed by surety companies and direct that the premiums be paid as provided in s. 19.01 (8).

(4) If it deems the bond of any officer insufficient, the county board may by resolution require him to furnish additional bond in sum to be named in the resolution, not exceeding ten thousand dollars for the register of deeds of any county with a population of less than one hundred fifty thousand, and not exceeding the maximum sum, if any, fixed by law for additional bonds for other officers.

**History:** 1975 c. 152, 199; 1975 c. 375 s. 44

**Cross Reference:** See 979.18 for provision for a bond by the medical examiner

**59.14 Offices where kept; when open. (1)**

Every sheriff, clerk of the circuit court, register of deeds, county treasurer, register of probate, county clerk and county surveyor shall keep his or her office at the county seat in the offices provided by the county or by special provision of law; or if there is none, then at such place as the board directs. The board may also require any elective or appointive county official to keep his or her office at the county seat in an office to be provided by the county. All such officers shall keep their offices open during the usual business hours each day, Sundays excepted, but the board may permit the officers to close their offices on Saturday or on legal holidays for such time as the board directs. With proper care, the officers shall open to the examination of any person all books and papers required to be kept in his or her office and permit any person so

examining to take notes and copies of such books, records, papers or minutes therefrom except as authorized under s. 19.59 (3) (d).

(2) If any such officer neglects or refuses to comply with any of the provisions of this section he shall forfeit five dollars for each day such noncompliance continues. Actions for the collection of such forfeiture may be brought upon the complaint of the district attorney of the proper county or of any party aggrieved by such refusal or neglect.

(3) Any county board may by ordinance provide that the cut-off reception time for the filing and recording of documents shall be advanced by one-half hour in any official business day during which time the register of deeds office is open to the public, in order to complete the processing, recording and indexing to conform to the day of reception but for all other purposes the office shall remain open to the public.

**History:** 1979 c. 120

See note to 19.21, citing 58 Atty. Gen. 67.

See note to 19.21, citing 68 Atty. Gen. 313

**59.15 Compensation, fees, salaries and traveling expenses of officials and employes. (1) ELECTIVE OFFICIALS. (a)**

The board shall, prior to the earliest time for filing nomination papers for any elective office to be voted on in the county (other than supervisors and circuit judges), which officer is paid in whole or part from the county treasury, establish the total annual compensation for services to be paid him (exclusive of reimbursements for expenses out-of-pocket provided for in sub. (3)). The annual compensation may be established by resolution or ordinance, on a basis of straight salary, fees, or part salary and part fees, and if the compensation established is a salary, or part salary and part fees, it shall be in lieu of all fees, including per diem and other forms of compensation for services rendered, except those specifically reserved to the officer in such resolution or ordinance. The compensation established shall not be increased nor diminished during the officer's term and shall remain for ensuing terms unless changed by the board.

(b) Any officer authorized or required to collect fees appertaining to his office shall keep a complete record of all fees received in the form prescribed by the board and shall file a record of the total annual receipts in the clerk's office within 20 days of the close of the calendar year or at such other times as the board requires. Any officer on a salary basis or part fees and part salary shall collect all fees authorized by law appertaining to his office and shall remit all fees not specifically reserved to him by enumeration in the compensation established by the

board pursuant to par. (a) to the treasurer at the end of each month unless a shorter period for remittance is otherwise provided.

(2) **APPOINTIVE OFFICIALS, DEPUTY OFFICERS AND EMPLOYEES.** (a) The board has the powers set forth in this subsection, sub. (3) and s. 59.025 as to any office, department, board, commission, committee, position or employe in county service (other than elective offices included under sub. (1), supervisors and circuit judges) created under any statute, the salary or compensation for which is paid in whole or in part by the county, and the jurisdiction and duties of which lie within the county or any portion thereof and the powers conferred by this section shall be in addition to all other grants of power and shall be limited only by express language.

(c) The board may provide, fix or change the salary or compensation of any such office, board, commission, committee, position, employe or deputies to elective officers without regard to the tenure of the incumbent (except as provided in par. (d)) and also establish the number of employes in any department or office including deputies to elective officers, and may establish regulations of employment for any person paid from the county treasury, but no action of the board shall be contrary to or in derogation of the rules and regulations of the department of health and social services pursuant to s. 49.50 (2) to (5) relating to employes administering old-age assistance, aid to dependent children, aid to the blind and aid to totally and permanently disabled persons or ss. 63.01 to 63.17.

(d) The board or any board, commission, committee or any agency to which the board or statutes has delegated the authority to manage and control any institution or department of the county government may contract for the services of employes, setting up the hours, wages, duties and terms of employment for periods not to exceed 2 years.

(e) The board may also provide and appropriate moneys for an employe awards program to encourage and to reward unusual and meritorious suggestions and accomplishments by county employes.

(3) **REIMBURSEMENT FOR EXPENSE.** The board may provide for reimbursement to any elective officer, deputy officer, appointive officer or employe of any expense out-of-pocket incurred in the discharge of his duty in addition to his salary or compensation, including without limitation because of enumeration, traveling expenses within or without the county or state, tuition costs incurred in attending courses of instruction clearly related to his employment, and the board may establish standard al-

lowances for mileage, room and meals, the purposes for which such allowances may be made, and determine the reasonableness and necessity for such reimbursements, and also establish in advance a fair rate of compensation to be paid to the sheriff for the board and care of prisoners in the county jail at county expense.

(3a) **COMMISSION ON AGING.** The board may provide for the payment of expenses and a per diem to members and nonmembers of the board appointed to a county commission on aging under s. 59.07 (93).

(4) **INTERPRETATION.** In the event of conflict between this section and any other statute, this section to the extent of such conflict shall prevail.

**History:** 1973 c. 118; 1977 c. 372

**Cross Reference:** See also 66.197 as to county salary adjustments.

The county board was without authority to adopt a resolution providing for the reduction and termination of its supplement to county judges' salaries on the contingency of increases in state salaries, since the resolution allowed for a mid-term reduction in compensation and constituted an un-sanctioned interference with the legislature's authority to fix and increase county salaries. State ex rel. Conway v. Elvod, 70 W (2d) 448, 234 NW (2d) 354.

See note to 111.70, citing 59 Atty. Gen. 209

Clerk of courts compensated on salary basis in lieu of fees must remit \$2 U.S. passport fee to county treasury. 60 Atty. Gen. 39

County board may not adopt step-salary plan for elective offices related to experience of officeholder as compensation is for office, and officer is entitled thereto as incident of office. 61 Atty. Gen. 165, 403

Where it is duty of county traffic officer to prosecute or assist in prosecution of county traffic offense he is not entitled to witness fees but may be paid additional compensation where duty takes place outside regular working hours. 62 Atty. Gen. 93

County board in county over 500,000 can abolish county park commission created under 27.02 (2) and transfer its functions to the county board. 63 Atty. Gen. 115

County board is without power to provide for compensation for members of county board of health where express statute, 140.09 (5), provides that they will serve without compensation but may be reimbursed for expenses. Statutory powers of county clerk with respect to budgeting and record keeping cannot be transferred by county board to new position of finance officer. 63 Atty. Gen. 196

See note to 59.025, citing 63 Atty. Gen. 256

See note to 83.01, citing 63 Atty. Gen. 286

See note to 66.197, citing OAG 1-80

**59.16 County clerk; deputies; salaries; vacancies.** (1) Every county clerk shall appoint in writing one or more deputies and file such appointment in his office. Such deputy or deputies shall aid in the performance of the duties of such clerk under his direction, and in case of his absence or disability or of a vacancy in his office, unless another is appointed therefor as provided in sub. (3), shall perform all the duties of such clerk during such absence or until such vacancy is filled. The county board may in its discretion, at any meeting, provide a salary for such deputy or deputies.

(2) In each county having a population exceeding one hundred and fifty thousand according to the last state or national census, the

county clerk may also appoint such number of assistants as the county board may, at any legal meeting thereof, authorize and prescribe, and said assistants shall receive such salaries as said county board at any such meeting shall provide and fix.

(3) If any county clerk is incapable of discharging the duties of his office the county board may, if they see fit, appoint a person such clerk, who shall serve until such disability is removed. If the county board is not in session at the time of such incapacity, the chairman of said board may appoint such clerk, whose term shall not extend beyond the next regular or special meeting of the county board. A person so appointed or appointed to fill a vacancy in the office of county clerk, upon giving an official bond with like sureties as are required of such clerk, shall perform all the duties of such office; and thereupon the powers and duties of the deputy of the last clerk shall cease.

**59.17 County clerk; duties.** The county clerk shall:

(1) **COUNTY BOARD PROCEEDINGS.** Act as clerk of the county board at all the meetings thereof; keep and record in a book therefor true minutes of all the proceedings of the board; make regular entries of their resolutions and decisions upon all questions; record the vote of each supervisor on any question submitted to the board, if required by any member present, and perform all duties prescribed by law or required by the board in connection with their meetings and transactions.

(2) **SAME.** Record at length in a book therefor every resolution, order and ordinance adopted or passed by the board.

(3) **SAME.** Sign all orders for the payment of money directed by the board to be issued, and keep in a book therefor a true and correct account thereof, and of the name of the person to whom each order is issued; but he or she shall not sign or issue any county order except upon a recorded vote or resolution of the board authorizing the same; and shall not sign or issue any such order for the payment of the services of any clerk of court, district attorney or sheriff until the person claiming the order files an affidavit stating that he or she has paid into the county treasury all moneys due the county and personally collected or received in an official capacity; and shall not sign or issue any order for the payment of money for any purpose in excess of the funds appropriated for such purpose unless first authorized by a resolution passed by the county board under s. 65.90 (5).

(4) **ACCOUNTS.** File and preserve in his office all accounts acted upon by the board, and in-

dorse their action thereon, designating specifically upon every account the amount allowed, if any, and the particular items or charges for which allowed, and such as were disallowed, if any.

(5) **RECEIPTS AND DISBURSEMENTS.** Record in a book therefor the reports of the county treasurer of the receipts and disbursements of the county.

(6) **SAME.** Keep a true and accurate account in a book therefor of all money which comes into his hands by virtue of his office, specifying the date of every receipt or payment, the person from or to whom the same was received or paid, and the purpose of each particular receipt or disbursement, and keep such book at all times open to the inspection of the county board or any member thereof.

(7) **SAME.** Keep in the manner prescribed in sub. (6) a separate account of all moneys paid the county treasurer by him.

(8) **SAME.** Keep all of the accounts of the county and all books of account as the county board directs. Books of account shall be maintained on a calendar year basis, which shall be the fiscal year in every county.

(9) **ACTIONS; NOTIFY DISTRICT ATTORNEY.** Promptly notify the district attorney of every action or proceeding commenced against the county and of every appeal from the action of the county board.

(10) **SCHOOL TAXES, RECORDS TO DEPARTMENT OF PUBLIC INSTRUCTION.** Transmit to the department of public instruction on the last Monday in December in each year certified copies of all resolutions and proceedings of the county board passed or had during the preceding year relating to the raising of any money for school purposes, and report the amount to be raised in each town in the county.

(12) **VILLAGES, TOWNS; CHANGE OF NAME.** Immediately transmit to the secretary of state, after the name of any town or village is changed or a new town is organized or the boundaries of any town are altered by the county board, a certified copy of the ordinance adopted therefor, indicating such change or changes.

(13) **DUPLICATE RECEIPTS.** Make out and deliver to the treasurer duplicate receipts of all moneys received by him as such clerk, and countersign and file in his office the duplicate receipts delivered to him by the treasurer of money received by him.

(14) **CERTIFIED COPIES; OATHS AND BONDS; SIGNATURES.** (a) Make and deliver to any person, on demand and payment of the lawful fees therefor, a certified copy or transcript of any book, record, account, file or paper in his office, and make any certificate which by law is de-

clared to be evidence, and charge ten cents for each folio of such copy or transcript and twenty-five cents for each such certificate.

(b) Except as otherwise provided, the county clerk shall receive and file the official oaths and bonds of all county officers and upon request shall certify under his signature and seal the official capacity and authority of any county officer so filing and charge therefor the statutory fee. Upon the commencement of each term every county clerk shall file his signature and the impression of his official seal in the office of the secretary of state.

**(15) TAXES; ELECTION DUTIES.** Perform all duties imposed on him in relation to the assessment and collection of taxes, and to the preparation and distribution of ballots and the canvass and return of votes at general, judicial and special elections.

**(16) REPORT, RECEIPTS AND DISBURSEMENTS TO COUNTY BOARD.** Make a full report to the county board, at the annual meeting or at any other regular meeting of the county board when so stipulated by the board, in writing, verified by his oath, of all money received and disbursed by him, and separately of all fees received by him; and settle with the board his official accounts and produce to them all books, accounts and vouchers relating to the same.

**(17) PROCEEDINGS TO HISTORICAL SOCIETY.** Forward to the historical society, postpaid, within thirty days after their publication a copy of the proceedings of the county board, and of all printed reports made under authority of such board or by the authority of other county officers.

**(18) COUNTY HIGHWAY COMMISSIONER; NOTIFY OF ELECTION.** Except in counties having a population of one hundred and fifty thousand or more, notify a county commissioner of highways of his election within ten days thereafter.

**(19) COUNTY TAX FOR ROAD AND BRIDGE FUND.** Except in counties having a population of one hundred and fifty thousand or more, notify the proper town officers of the levy and rate of any tax for the county road and bridge fund.

**(20) LIST OF MUNICIPAL OFFICERS.** Each county clerk shall, annually, on the first Tuesday of June, transmit to the secretary of state a typewritten or printed list showing the name and post-office address of the chairman, mayor, president, clerk, treasurer and assessor of each town, city and village within his county. Such lists shall be placed on file for the information of the public.

**(25) GENERAL.** Perform all other duties required of him by law.

History: 1975 c. 200; 1977 c. 29, 305.

County board can only grant powers of indirect supervision to finance director with respect to accounting or bookkeeping duties of county clerk. 65 Atty Gen 132.

**59.175 Clerks of counties containing state institutions to make claims in certain cases.** The county clerk of any county, where such county is entitled to reimbursement as provided in s. 16.51 (7), shall make certified claim against the state, without direction from the county board, in all cases where such reimbursement is directed in said subsection, upon forms prescribed by the department of administration and to contain such information as shall be required by him; such claims to be filed with the department of health and social services on or before June first of each year. If the claims are approved by such department they shall be certified to the department of administration and paid from the appropriations made by s. 20.435 (3) (c).

**59.18 County treasurer; eligibility.** No person holding the office of sheriff, undersheriff, circuit judge, district attorney, clerk of the circuit court, county clerk or member of the county board shall be eligible to the office of county treasurer or deputy county treasurer.

History: 1977 c. 449 s. 497.

**59.19 Deputies; oath; salary; temporary vacancy.** (1) The county treasurer may appoint in writing one or more deputies to aid him in the discharge of the duties of his office. Such deputy or deputies, in the absence of the treasurer from his office or in case of a vacancy in said office or any disability of the treasurer to perform the duties of his office, unless another is appointed therefor as provided in sub. (2), may perform all the duties of the office of treasurer until such vacancy is filled or such disability is removed. The person or persons so appointed shall take and file the official oath. They shall file their appointment with the county clerk. The county board may, in its discretion, at its annual meeting or at any special meeting, provide a salary for each such deputy.

(2) If any county treasurer is incapable of discharging the duties of his office, the county board may, if they see fit, appoint a person treasurer who shall serve until such disability is removed. A person so appointed or appointed to fill a vacancy in the office of treasurer, upon giving an official bond with like sureties as are required of such treasurer, shall perform all the duties of such office, and thereupon the powers and duties of any deputy performing the duties of the last treasurer shall cease.

**59.20 County treasurer; duties.** The county treasurer shall:

(1) Receive all moneys from all sources belonging to the county, and all other moneys which by statute or county ordinance are directed to be paid to him, and, except in counties having a population of 500,000 or more in the case of the payment of delinquent property taxes or the redemption of tax sales, and the sale or assignment of property for taxes at or after tax sale, make out and deliver to the county clerk duplicate receipts therefor, and file in his office the duplicate receipts delivered to him by the county clerk for money received by him. In the case of the exception hereinabove provided, the county treasurer shall file a duplicate receipt in his office.

(2) Pay out all moneys belonging to the county only on the order of the county board, signed by the county clerk and countersigned by the chairman, except when special provision for the payment thereof is otherwise made by law; and, except in counties having a population of 500,000 or more, pay out all moneys belonging to the county road and bridge fund on the written order of the county commissioner of highways, signed by the county clerk and countersigned by the chairman of the county board.

(3) Pay all such county orders in the order of time in which they are presented for payment; but where two or more are presented at the same time, give precedence to the order of the oldest date, but he shall receive of town, city and village treasurers all county orders issued in such county, which such treasurers may present in payment of county taxes, to the amount of the county taxes actually collected by any such treasurer in the year for which such orders are offered in payment, which amount shall be determined by the affidavit of such treasurer.

(4) Keep a true and correct account of the receipt and expenditure of all moneys which come into his hands by virtue of his office in books kept therefor, specifying the date of every receipt or payment, the person from or to whom the same was received or paid, and the purpose of each particular receipt or payment; keep also in like manner a separate account of all fees received, a separate account of all moneys received for taxes, and a separate account of money received upon redemption of lands from sales thereof for nonpayment of taxes, further specifying in the two last accounts the description of the property on account of which such money was paid, which books shall be open at all times to the inspection of the county board or any member thereof and to all the county and state officers; make in writing a fully itemized statement and report, verified by his oath, to

such board on the first day of their annual meeting and at such other times as they may direct, of all moneys of whatsoever nature received and disbursed by him; exhibit his vouchers therefor to be audited and allowed, and settle with them his accounts as treasurer; and exhibit to the board all moneys in his custody or under his control as treasurer, and, if required, make oath that such moneys are the funds of the county.

(5) (a) Except as provided in par. (b), transmit to the state treasurer at the time required by law to pay the state taxes a particular statement, certified by personal affidavit indorsed upon or attached thereto, of all moneys received by him or her during the preceding year and which are payable to the state treasurer for licenses, fines, penalties, or on any other account, and at the same time pay to the state treasurer the amount thereof after deducting the legal fees.

(b) For all court imposed fines and forfeitures required by law to be deposited in the state treasury, the amounts required by s. 165.87 for the penalty assessment surcharge, the amounts required by s. 973.055 for the domestic abuse assessment surcharge, the amounts required by s. 29.997 for the natural resources assessment surcharge and the amount required by s. 29.998 for natural resources restitution payments, transmit to the state treasurer a statement of all moneys required by law to be paid on the actions so entered during the preceding month on or before the first day of the next succeeding month, certified by personal affidavit endorsed upon or attached thereto, and at the same time pay to the state treasurer the amount thereof.

(6) Cause to be insured, when directed by the county board, at the expense of the county, the county buildings or any of them in the name of the county; and, in case of loss, demand and receive the money due on account of such insurance for the use of the county; and all such money shall be applied to rebuilding or repairing such county buildings.

(7) Make annually, on the third Monday of March, a certified statement, and forward the same to each town, city and village clerk in his county, showing the amount of money paid from the county treasury during the year next preceding to each such town, city and village treasurer in his county, specifying the date of each payment, the amount thereof and the account upon which the same was made; and it shall be unlawful for any county treasurer to pay to the treasurer of any town any money in his hands belonging to such town from the third Monday of March until ten days after the annual town

meeting except upon the written order of the town board.

(8) Retain 10% for fees in receiving and paying into the state treasury all moneys received by him for the state for fines and penalties, except that 50% of the state forfeitures, fines and penalties under chs. 341 to 349 and 351 shall be retained as fees, and retain such other fees for receiving and paying money into the state treasury as are prescribed by law.

(9) Make and deliver to any person on demand and payment of the lawful fees therefor a certified copy or transcript of any book, record, account, file or paper in his office and make any certificate which by law is declared to be evidence, and collect as fees therefor ten cents for each folio of any copy or transcript and twenty-five cents for each certificate.

(10) On the first day of each month pay into the county treasury the whole amount of fees received by him.

(11) Pay to the state treasurer on his or her order all state suit tax moneys received from the clerk of the circuit court under s. 59.395 (5) and if any such moneys remain in his or her hands when he or she is required to pay the state tax, pay such moneys therewith to the state treasurer.

(12) Perform all other duties required of him by law.

(13) If the treasurer's county receives national forest income, make distribution thereof to the towns in the county wherein national forest lands are situated, each town to receive such proportion thereof as the area of national forest lands therein bears to the area of such lands in the entire county. Fifty percent of the amount received by it shall be expended by the town exclusively for the benefit of roads therein.

(14) Exercise any investment authority delegated to the county treasurer by the county board under s. 59.07 (101).

History: 1971 c. 278; 1975 c. 39, 199; 1977 c. 29, 449; 1979 c. 34, 111; 1979 c. 333 s. 5.

See note to art. X, sec. 2, citing State ex rel. Comrs. of Pub. Lands v. Anderson, 56 W (2d) 666, 203 NW (2d) 84.

The entire amount of bail forfeited under 969.13 (4) is to be retained by the county treasurer and no part thereof is to be paid to the state treasurer. 62 Atty. Gen. 247.

Sub (13) does not control distribution of monies received from federal government under 31 U.S.C. sec. 1601, et seq. OAG 45-78 is withdrawn. 67 Atty. Gen. 277.

County which has received payments from federal government under 31 U.S.C. sec. 1601 et seq. cannot distribute such payments to the towns in which the national forest lands are located. 68 Atty. Gen. 23.

**59.201 Cash flow, Milwaukee.** In counties having a population of 500,000 or more, the county treasurer may be designated as the custodian for all cash received in an escrow, trust, bailment or safekeeping capacity by any other department of the county. This section is not

applicable to the clerk of circuit court or any other depository specifically designated by a court of law or by a donor or other bailor even if the other depository retains control over such funds and the ultimate disposition. The treasurer may commingle this cash with general revenue cash and subject these funds to a common investment policy. Any interest earned on such investment reverts to the general fund of the county.

History: 1975 c. 41

**59.21 Sheriff; undersheriff; deputies. (1)**

Within 10 days after entering upon the duties of his office the sheriff shall appoint some proper person, resident of his county, undersheriff, provided that in selecting such undersheriff, in counties where the sheriff's department is under civil service the sheriff, in conformity with county ordinance, may grant a leave of absence to a deputy sheriff, and appoint him undersheriff, or to any other position in the sheriff's department, on request of such appointee, and upon acceptance of such new appointment and duties, and after completion thereof, such appointee shall immediately be returned to his deputy sheriff position and continue therein without loss of any rights under the civil service law; the sheriff, however, may not grant such leave of absence to a deputy sheriff until he first secures the consent of the county board by resolution duly adopted by the county board, provided that in counties with a population of 500,000 or more the appointment of an undersheriff shall be optional; and within such time the sheriff shall appoint deputy sheriffs for his county as follows:

(a) One for each city and village therein having one thousand or more inhabitants.

(b) One for each assembly district therein, except the district in which the undersheriff resides, which contains an incorporated village having less than one thousand inhabitants and does not contain a city or incorporated village having more than one thousand inhabitants.

(c) Each deputy shall reside in the city or village for which he is appointed; or if appointed for an assembly district, shall reside in the village in such district.

(2) He may appoint as many other deputies as he may deem proper.

(3) He may fill vacancies in the office of any such appointee, and may appoint a person to take the place of any undersheriff or deputy who becomes incapable of executing the duties of his office.

(4) A person appointed undersheriff or deputy for a regular term or to fill a vacancy or otherwise shall hold office during the pleasure of the sheriff.

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(5) The sheriff or his undersheriff may also depute in writing other persons to do particular acts.

(6) Every appointment of an undersheriff or deputy, except deputations to do a particular act, and every revocation of such appointment shall be in writing and be filed and recorded in the office of the clerk of the circuit court.

(7) In case of a vacancy in the office of sheriff the undersheriff shall in all things and with like liabilities and penalties execute the duties of such office until the vacancy is filled as provided by law.

(8) (a) In counties having a population of less than 500,000, the county board may by ordinance fix the number of deputy sheriffs to be appointed in said county which number shall not be less than that required by sub. (1) (a) and (b), and fix the salary of such deputies; and may further provide by ordinance, that deputy sheriff positions shall be filled by appointment by the sheriff from a list of 3 persons for each position, such list to consist of the 3 candidates who shall receive the highest rating in a competitive examination of persons residing in this state for at least one full year prior to the date of such examination. Such competitive examinations may be by a county civil service commission or by the department of administration at the option of the county board and it shall so provide by ordinance. The department of administration shall upon request of the county board conduct such examination according to the methods used in examinations for the state civil service and shall certify an eligible list of 3 names for each position to the sheriff of such county who shall thereupon make an appointment from such list to fill such position within 10 days after the receipt of such eligible list. The county for which such examination is conducted shall pay the cost thereof. If a civil service commission is decided upon for the selection of deputy sheriffs, then ss. 63.01 to 63.17 shall apply so far as consistent with this subsection, except ss. 63.03, 63.04 and 63.15 and except the provision governing minimum compensation of the commissioners. The ordinance or an amending ordinance may provide for employe grievance procedures and disciplinary actions, for hours of work, for tours of duty according to seniority and for other administrative regulations. County board provisions consistent herewith and existing on July 25, 1951, are validated.

(b) 1. The persons appointed shall hold the office of deputy sheriff on good behavior. In any county operating under this subsection, but not under s. 59.07 (20), whenever the sheriff or undersheriff or a majority of the members of a

civil service commission for the selection of deputy sheriffs believes that a deputy has acted so as to show him to be incompetent to perform his duties or to have merited suspension, demotion or dismissal he shall report in writing to the grievance committee setting forth specifically his complaint, and, when the party filing the complaint is a sheriff or undersheriff, may suspend or demote the officer at the time such complaint is filed. The grievance committee shall be appointed in the same manner and at the same time as standing committees of the county board of supervisors are appointed. The committee may be made up of members of the county board or other electors of the county, or both. Such members shall be paid in the same manner as members of other county board committees.

2. The grievance committee shall forthwith notify the accused officer of the filing of the charges and on request furnish him with a copy of the same.

3. The grievance committee shall, if the officer requests a hearing, appoint a time and place for the hearing of the charges, the time to be within 3 weeks after the filing of such request for a hearing and the committee shall notify the sheriff or undersheriff or the members of the civil service commission, whichever filed the complaint with the committee, and the accused of the time and place of such hearing. If the accused officer makes no request to the grievance committee, then the committee may take whatever action it deems justifiable on the basis of the charges filed and shall issue an order in writing as provided in subd. 5. The committee may take testimony at the hearing, and any testimony taken shall be transcribed. The chairman of the committee shall issue subpoenas for the attendance of such witnesses as may be requested by the accused.

4. At such hearing the chairman of the committee shall possess authority to maintain order and enforce obedience to his lawful requirements and if any person at the hearing shall conduct himself in a disorderly manner, and after notice from the chairman shall persist therein, the chairman may order him to withdraw from the hearing, and on his refusal may order the sheriff or other person, to take him into custody until the hearing is adjourned for that day.

5. At the termination of the hearing the grievance committee shall determine in writing whether or not the charge is well founded and shall take such action by way of suspension, demotion, discharge or reinstatement as it may deem requisite and proper under the circumstances and file the same with the secretary of the committee.

6. The accused may appeal from the order to the circuit court by serving written notice thereof on the secretary of the committee within 10 days after the order is filed. Within 5 days thereafter the board shall certify to the clerk of the circuit court the record of the proceedings, including all documents, testimony and minutes. The action shall then be at issue and shall have precedence over any other cause of a different nature pending in the court, which shall always be open to the trial thereof. The court shall upon application of the accused or of the board fix a date of trial, which shall not be later than 15 days after such application except by agreement. The trial shall be by the court and upon the return of the board, except that the court may require further return or the taking and return of further evidence by the board. The question to be determined by the court shall be: Upon the evidence was the order of the board reasonable? No costs shall be allowed either party and the clerk's fees shall be paid by the county. If the order of the committee is reversed, the accused shall be forthwith reinstated and entitled to his pay as though in continuous service. If the order of the committee is sustained it shall be final and conclusive.

(c) The county board of any county adopting the ordinance provided for in this subsection may provide that any deputy sheriff acting as such at the time of such adoption shall be eligible to such appointment without examination.

(cm) Any county board may, by a majority vote, establish by ordinance in connection with the adoption of an ordinance providing for civil service selection and tenure of deputy sheriffs under pars. (a) and (b) or by amendment to such an ordinance previously adopted, a traffic division of the sheriff's department and fix the number of deputy sheriffs as traffic patrolmen and other employes in said division in which case s. 83.016 shall become inoperative as to that county. The board in such ordinance shall further provide that the personnel in such traffic division of the sheriff's department shall be appointed and hold their positions in the manner and under the conditions set forth in pars. (a) and (b). The county board may also provide that traffic patrolmen who have been appointed pursuant to s. 83.016 and who are employed by the county at the time of the adoption of such ordinance pursuant to this subsection establishing a traffic division in the sheriff's department and providing civil service therefor shall be appointed to positions in such traffic division without examination.

(d) Adoption of the ordinances provided for by this subsection shall not preclude the county board from thereafter amending or repealing

such ordinances, but such amendment or repeal shall not be effective unless voted by the affirmative vote of three-fourths of the members-elect of such board. The civil service provisions of this section shall apply only to such deputies or traffic patrolmen who are regularly employed by the county or sheriff and shall not apply to honorary deputies. Notwithstanding the provisions of this subsection the county board may enact a civil service ordinance for county employes under s. 59.07 (20) which civil service ordinance may include deputy sheriffs or traffic patrolmen, or both.

**History:** 1975 c 198; 1977 c 26

Upon reinstatement of an unreasonably suspended deputy sheriff, the amount of pay due is to be reduced by amounts earned in other employment during the period of suspension. State ex rel Klijngler & Schilling v. Baird, 56 W (2d) 460, 202 NW (2d) 31.

The burden of establishing the lack of reasonable and diligent efforts by the suspended deputy sheriffs to seek other employment and the availability of such employment is on the employer. State ex rel Schilling & Klingler v. Baird, 65 W (2d) 394, 222 NW (2d) 666.

Where a county has a civil service plan for deputy sheriffs, transfers may result in promotion, and such vacancies should be filled by examination and certification of 3 eligibles to sheriff for appointment. 61 Atty. Gen. 10.

In counties where deputy sheriffs are under civil service under (8), county board may provide job classifications for deputy sheriff positions which would form basis of selection of competent personnel who could, on appointment by and under supervision of sheriff, be assigned to perform duties on a felony squad on countywide basis. By reason of 59.24 (1), or by means of a posse comitatus, the sheriff could on a case-by-case basis assert leadership, direction and control over the investigation of a crime in an area which has a police department and it is the duty of local police to cooperate. 61 Atty. Gen. 79.

Whereas a deputy sheriff must be a resident of the county for which appointed, 59.24 (2), 66.30, 66.305 and 66.315 would allow such deputy to serve in an adjacent county upon request for mutual assistance. 62 Atty. Gen. 250.

Deputy sheriff appointed under (2) and (8) (a) must be a resident of the state and must, before qualifying and serving, be a resident of the county and must continue to maintain residency therein. 66 Atty. Gen. 315.

Section 63.065 is incorporated by reference into 59.21 (8) (a). 68 Atty. Gen. 124.

This section does not affect sheriff's power to call posse comitatus. 68 Atty. Gen. 334.

**59.22 Liability for appointees' acts; bonds. (1)** Except as provided otherwise in subs. (3) and (4), the sheriff shall be responsible for every default or misconduct in office of his undersheriff, jailer and deputies during the term of his office, and after the death, resignation or removal from office of such sheriff as well as before; and an action for any such default or misconduct may be prosecuted against such sheriff and his sureties on his official bond or against the executors and administrators of such sheriff.

**(2)** The sheriff may require his undersheriff, jailer and every deputy who is not required by subs. (3) and (4) to furnish an official bond, before entering upon the duties of his office, to execute and deliver to him a bond in such sum and with such sureties as he requires, conditioned for the faithful performance of his official

duties; and every default or misconduct of such undersheriff or deputy for which the sheriff is liable shall be a breach of such bond.

(3) In counties having a population of 500,000 or more, the sheriff shall not be responsible for the acts, defaults or misconduct in office of either his jailer or his deputies, appointed under ss. 63.01 to 63.17, except where such deputy or jailer acts under the express direction of the sheriff. Each such deputy and jailer shall execute and file an official bond and shall be liable for his acts, defaults or misconduct in office in the same manner and to the same extent that the sheriff and his executors and administrators would otherwise be liable, and actions therefor shall be prosecuted directly against such deputy or jailer and the surety on his official bond. The above bond or surety may be a blanket bond or contract of insurance pursuant to s. 59.07 (2) (d).

(4) In counties having a population of less than 500,000 in which a civil service ordinance covering sheriff's deputies and jailers is in effect pursuant to s. 59.07 (20) or 59.21 (8), the sheriff shall not be financially responsible for the acts, defaults or misconduct in office of either his jailer or his deputies, appointed under s. 59.07 (20) or 59.21 (8), except where such deputy or jailer acts under the express direction of the sheriff. Each such deputy and jailer shall execute and file an official bond and shall be liable for his acts, defaults or misconduct in office in the same manner and to the same extent that the sheriff and his executors and administrators would otherwise be liable, and actions therefor shall be prosecuted directly against such deputy or jailer and the surety on his official bond. The official bond required shall be in such principal amount as the county board determines and shall have a licensed surety company as surety. The cost of any such bond shall be paid by the county. In lieu of furnishing bonds, such deputies may be included in a schedule or blanket bond under s. 19.07 (1) (b).

(5) If a deputy sheriff is the defendant in any civil action, writ or special proceeding and is proceeded against in his or her official capacity or is proceeded against as an individual because of acts committed while carrying out duties as an officer or employe, s. 895.46 applies to the civil action, writ or special proceeding.

History: 1979 c. 74.

**59.225 Arming sheriffs.** The county board of any county may furnish its sheriff, undersheriff and deputy sheriffs with the necessary arms, ammunition, gas bombs and gas sticks for the carrying out of their respective duties, such arms, ammunition, gas bombs and gas sticks to remain the property of the county.

**59.23 Sheriff; duties.** The sheriff shall:

(1) Take the charge and custody of the jail maintained by his county and the persons therein, and keep them himself or by his deputy or jailer.

(2) Keep a true and exact register of all prisoners committed to any jail under his charge, in a book therefor, which shall contain the names of all persons who are committed to any such jail, their residence, the time when and cause of commitment, and the authority by which they were committed; and if for a criminal offense, a description of his person; and when any prisoner is liberated, state the time when and the authority by which he was liberated; and if any person escapes, state the particulars of the time and manner of such escape.

(3) Attend upon the circuit court held in the sheriff's county during its session, and at the request of the court file with the clerk thereof a list of deputies for attendance on the court. The court may by special order authorize additional deputies to attend when the court is engaged in the trial of any person charged with a crime. Except as otherwise provided in this section, the county board shall establish the rate of compensation and the level of services to be provided. The sheriff or one or more deputies shall attend the court of appeals when it is in session in the sheriff's county. The state shall reimburse the county from the appropriation under s. 20.660 (1) for the actual salary paid to the sheriff or deputies for the service provided for the court of appeals.

(4) Personally, or by his undersheriff or deputies, serve or execute according to law all processes, writs, precepts and orders issued or made by lawful authority and to him delivered.

(5) Deliver on demand to his successor in office, when he has qualified according to law, the jail and other property of the county and all prisoners in such jail, and all books, records, writs, processes, orders and other papers belonging to his office and in his possession or in that of his undersheriff, jailer or deputies, except as provided in s. 59.33, and upon the delivery thereof such successor in office shall execute to him a receipt therefor.

(6) In counties having a population of three hundred thousand or more, assign one deputy, to be mutually agreed upon by him and the district attorney, to the office of the district attorney.

(7) Perform all other duties required of him by law.

(8) The sheriff is authorized to destroy all sheriff's dockets, daily jail records and cash books dated prior to 1901. It shall be the duty of the sheriff to hereafter retain and safely keep all

such records for a period of 30 years, after which the same may be destroyed.

(9) When the sheriff is required to serve or execute any summons, order or judgment, or to do any other act, he shall be bound to do so in like manner as upon process issued to him, and shall be equally liable in all respects for neglect of duty; and if the sheriff be a party the coroner shall perform the service and all statutes relating to sheriffs shall apply to coroners where the sheriff is a party.

(10) To enforce in his county all general orders of the department of industry, labor and human relations relating to the sale, transportation and storage of explosives.

(11) Conduct operations within his county and, when the county board so provides, in waters of which his county has jurisdiction under s. 2.04 for the rescue of human beings and for the recovery of human bodies.

History: 1973 c. 157; 1977 c. 203, 418, 449.

Sheriff has authority to aid in rescue on ice offshore in Lake Michigan. 60 Atty. Gen. 62.

Neither sheriff nor his deputy can solicit or receive compensation not provided by law for official duties but deputy, while off duty, can be employed as a private security officer. 61 Atty. Gen. 256.

#### **59.24 Peace maintenance; powers and duties of peace officers, co-operation. (1)**

Sheriffs and their undersheriffs and deputies shall keep and preserve the peace in their respective counties and quiet and suppress all affrays, routs, riots, unlawful assemblies and insurrections; for which purpose, and for the service of processes in civil or criminal cases and in the apprehending or securing any person for felony or breach of the peace they and every coroner and constable may call to their aid such persons or power of their county as they may deem necessary.

(2) County law enforcement agencies may request the assistance of law enforcement personnel or assist other law enforcement agencies as provided in ss. 66.305 and 66.315.

A state traffic patrol officer should not except in extreme emergencies be impressed for service as part of a posse comitatus under (1), where the officer is entitled to worker's compensation, if injured, from the county or municipality but would not be entitled to regular pay from the state and probably would not be entitled to worker's compensation from the state. 62 Atty. Gen. 38.

See note to 66.305, citing 63 Atty. Gen. 596.

#### **59.245 County telecommunication terminal.**

Every county in the state shall have a telecommunication terminal installed in a county law enforcement agency which is interconnected with the department of transportation and other county, municipal and governmental law enforcement agencies in the TIME (Transaction Information for Management of Enforcement) system. This section shall not preclude the connection and participation in the

system of any governmental law enforcement agency and the requirements of this section shall be effective even though there are additions, deletions or modifications in the system.

History: 1977 c. 29 s. 1654 (7) (b); 1977 c. 260.

#### **59.25 Transportation of criminals through other counties; rewards for their apprehension. (1)**

Any sheriff or other officer who has legally arrested any person in any county may pass across and through such parts of any other county or counties as are in the ordinary route of travel from the place where such person was arrested to the place where he is to be conveyed, according to the command of the process by which such arrest was made; and such conveyance of such prisoner shall not be deemed an escape, nor shall the prisoner so conveyed or the officers having him in custody be liable to arrest on any civil process while passing through such other county or counties.

(2) Whenever a person convicted of, or charged with, any felony, the punishment for which is not less than five years' imprisonment, shall escape, or whenever any such felony shall be committed by any unknown person or persons the sheriff of the county from which such escape was made or in which such felony was committed may, in his discretion and with the consent of the chairman of the board of such county when such board is not in session, and with the consent of the board when they are in session, offer such reward for the apprehension and delivery of such escaped person, or the apprehension or conviction of the perpetrator of such felony as he may deem necessary, not exceeding one thousand dollars in any one case; but no such reward or any part thereof shall be paid to any such sheriff, his undersheriff or any deputy. The right to any such reward shall be determined finally by such sheriff; and if more than one person claims the same he shall determine what portion, if any, the claimants are entitled to, and shall certify his determination to the county treasurer, and such certificate shall be the treasurer's authority for paying the sum so certified.

The authority of county officials to offer rewards for the arrest or conviction of persons violating the criminal law is limited to the circumstances set forth in (2). 63 Atty. Gen. 555.

**59.26 Not to act as attorney.** No sheriff, undersheriff, deputy, coroner or medical examiner shall appear or practice as attorney in any court, draw or fill up any writ, pleading or proceeding for a party in any action, nor, with the intent to be employed in the collection of any demand or the service of any process, advise or counsel any person to commence an action or proceeding; and for violation of this section

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every such officer shall forfeit not exceeding \$50.

History: 1973 c. 272.

**59.27 Service on sheriff; how made.** Every writ, notice or other paper required to be delivered to or served on any sheriff may be served by leaving the same at his office during the hours it is required to be kept open; but if there is any person belonging to such office therein, such writ, notice or other paper shall be delivered to such person; and every such service shall be deemed equivalent to a personal delivery to or service on such sheriff.

**59.28 Sheriff; fees.** Except as provided in subs. (2) (b) and (27), every sheriff is entitled to receive one-half of the following fees in advance for services providing the county board approves advance payment. The remaining one-half shall be deposited into the county general fund and shall not be paid to the sheriff in lieu of salary.

(1) For serving a summons or any other process by which action is commenced, or writ or order of injunction or other order, and making a return thereon, for one defendant, \$4; for each additional defendant, \$2; for attempting to serve, one-half of the foregoing fees. In counties having a population of 500,000 or more, the full fee shall be charged for attempted service.

(2) (a) Except in counties having a population of 500,000 or more, traveling in making service of any summons, writ or other process, except upon criminal warrants, 15 cents per mile for each mile actually traveled going and returning. The sheriff shall serve all process, orders and papers in any one action or proceeding which may then be in the sheriff's hands for service, which can be served at the same time and upon all persons upon whom service is required who can be served in the same journey, and the sheriff shall be entitled to one mileage for the greatest distance actually traveled to make such service, and no more. For summoning grand and petit jurors no traveling fees shall be charged for more than the distance actually and necessarily traveled in summoning such jurors.

(b) In counties having a population of 500,000 or more, the charge for travel for the service or attempted service of process or pleading shall not exceed \$1 for each party to be served in each action. If there is more than one person to be served at a given address, only one charge for travel shall be imposed. For summoning grand and petit jurors, no travel expense shall be charged for more than the distance actually and necessarily traveled in summoning such jurors. Sixty cents of the \$1 travel charge

shall be paid in advance to the sheriff providing the county board approves advance payment, and 40 cents shall be deposited into the county general fund and shall not be paid to the sheriff in lieu of salary.

(3) Taking a bond or undertaking in any case, when required by law, and approving the same, \$1.

(4) Making a copy of any bond, undertaking, summons, writ, complaint or other paper served or taken, when required by law or demanded by a party, and when not furnished by a party to the action or attorney, 10 cents per folio.

(5) Serving and returning a subpoena to testify, for the first person served, \$4; and \$2 for each additional person named.

(6) Serving an execution on a judgment, demanding payment thereof or other writ not provided for, \$4.

(7) Collecting and paying over all sums upon execution, writ or process for the collection of money, 10% on the first \$300; 5% on the next \$300 or any part thereof and 3% on any excess over \$600; but in no case shall the whole percentage exceed \$60.

(8) Advertising goods and chattels for sale upon execution, writ or process, \$1.50. Where there is more than one execution, writ or process in the hands of the sheriff against the same defendants there shall be but one advertising fee charged in the whole, which shall be on the execution having priority.

(9) Drawing advertisement of real estate, per folio, 50 cents.

(10) Every certificate of sale of real estate, \$1.

(11) Filing copy thereof with register of deeds, including fees of register of deeds, \$4.

(12) Drawing, executing and acknowledging a deed pursuant to a sale of real estate, \$4, to be paid by the grantee in such deed.

(13) Summoning a grand or petit jury, to be paid from the county treasury, \$1 for each juror named.

(14) Summoning a jury upon a writ of inquiry, attending such jury, and making and returning the inquisition, \$3.

(15) Summoning a special jury, struck pursuant to an order of court, and returning the panel, \$5.

(16) Summoning a jury, pursuant to any precept or summons of any officer in any special proceeding, \$2; and for attending such jury when required, \$6 per day.

(17) Attending a view when ordered by the court, \$6 per day, and 10 cents per mile traveling fee, going and returning.

(18) Summoning appraisers and swearing the same, \$2.

(19) Every appraiser, for each day, not less than \$2 nor more than \$14 as is fixed by the county board.

(20) Drawing an inventory or other paper, except return upon a summons or subpoena, 50 cents per folio. If several writs of attachment against the same defendant are delivered to the sheriff for service and execution, the sheriff is entitled to no more than 20 cents per folio for drawing an inventory on all writs subsequent to the first writ of attachment so executed by the sheriff, of any property included in the first inventory so drawn by the sheriff, and 10 cents per folio for all copies thereof.

(21) Attending the court of appeals or supreme court, \$3 per day, to be allowed on the certificate of the chief justice, the chief judge or the applicable clerk and paid out of the state treasury.

(22) Attendance upon the circuit court, the sheriff or the necessary deputies, to be paid out of the county treasury, shall receive such salary or per diem as the county board determines.

(23) Serving notice of any election upon election officers, \$1 for each election district, to be paid by the county.

(24) For serving any writ or other process with the aid of the county, \$5 and \$5 per hour for each deputy assigned to inventory the property when seizing property on attachment, replevin, execution, or evicting on a writ of restitution or writ of assistance plus all necessary expenses incurred thereby.

(25) All such necessary expenses incurred in taking possession of any goods or chattels and preserving the same as shall be just and reasonable in the opinion of the court.

(26) All fees allowed by law and paid to any printer for any advertisement required to be published by the sheriff.

(27) Traveling to serve any criminal process for every mile actually traveled, 15 cents per mile, whether in the county from which process issued or not, and actual and necessary disbursements for board and conveyance of prisoner. Ten cents of the 15 cents per mile travel expenses shall be paid in advance to the sheriff provided the county board approves advance payment and 5 cents shall be deposited into the county general fund and shall not be paid to the sheriff in lieu of salary.

(28) Every commitment to prison, \$4.

(29) Discharging a person from prison, \$1, which shall include the drawing and filing of a certificate of discharge with the clerk of the court.

(30) Bringing up a prisoner upon habeas corpus to testify or answer in any court or before any judge, \$4.

(31) Attending before any officer with a prisoner for the purpose of having the prisoner surrendered in exoneration of bail or attending to receive a prisoner so surrendered who was not committed at the time, and receiving such prisoner into custody, in either case, \$3.

(32) Attending any court with a prisoner \$6 per day and \$3 for each half day, besides actual and necessary expenses. Guarding any prisoner sentenced to imprisonment at hard labor in the county jail, when the prisoner performs such labor upon any highway or public improvement and there are no secure means for preventing escape, \$3 for each day and \$1.50 for each half day so employed.

(33) For selling real estate under any judgment or order of court, or on foreclosure by advertisement, and making all the necessary papers and notices, including deed or certificate, when the amount bid does not exceed \$1,000, \$20; when the amount bid exceeds \$1,000, \$30; for travel performed in making such sale, to be computed from the courthouse, 15 cents per mile going and returning, besides the cost of publishing any advertisement of sale. For drawing and executing and acknowledging a deed upon a sale made by the predecessor in office, \$6. When any such sale is made by a referee or any other officer the sheriff shall have the same fees.

(34) When a person accused of a criminal offense escapes from custody or pursuit without fault or negligence of the sheriff, and the district attorney certifies that the pursuit was necessary and proper, and the county board is satisfied by proof that the escape was not the result of the carelessness or negligence of the sheriff, the board may allow fair compensation for the time and necessary expense incurred in the pursuit.

(35) For assisting clerk of circuit court in drawing jury, \$2.

(37) For bringing a person alleged to be mentally ill, infirm or deficient before the court and subpoenaing witnesses, the fees allowed the sheriff in other cases; for taking such patient to a hospital or removing one therefrom, \$20 per day and necessary expenses and the actual expenses for the support and transportation of the patient, and \$16 per day or \$4 per each quarter day and necessary expenses for each assistant as may be ordered by the court.

(39) For the posting of notices of sheriff's sales of real or personal property or posting any other notice and making a return thereon, \$4 for the first posting and \$2 for each additional posting.

History: 1975 c. 403, 421; 1977 c. 26; 187, 318, 449

A sheriff who is unsuccessful in serving an execution on a judgment is not entitled to a fee allowed under this section unless he or she has demanded payment under (6). 67 Atty. Gen. 140.

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Notwithstanding 59.28 (intro.), (1) and (2) (b), 71.13 (3) (g) requires that sheriff of Milwaukee County perform duties pursuant to 71.13 without advancement of fees by department of revenue. OAG 11-80.

**59.29 Compensation for apprehensions in other states; conditions.** (1) In all cases where by the laws of this state the governor is authorized to demand of the executive authority of any other state any fugitive from justice or any person charged with crime in this state and to appoint an agent to receive such person, and such person is apprehended in any other state by the sheriff or deputy sheriff of the county in this state where the warrant for such fugitive from justice is properly issued, or such crime was committed, and such person voluntarily returns with said sheriff to this state without requisition, such sheriff shall be entitled to eight dollars per day for the time necessarily expended in traveling to, apprehending and returning with such person and his actual and necessary expenses for such time, which compensation and expenses shall be allowed by the county board of such county upon the presentation thereto of an itemized and verified account, stating the number of days he was engaged, the number of miles traveled and each item of expense incurred in rendering such services, including the transportation and board of the person in his custody. No allowance whatever shall be made him as mileage.

(2) The sheriff of any county having less than 300,000 population shall not receive the compensation provided under sub. (1), unless the apprehension was duly authorized in writing by the district attorney or by the circuit judge for the county where the crime was committed. The written authority shall certify that the ends of justice will be subserved by the apprehension and return of the person, and the sheriff shall attach the certificate to and file it with his or her itemized account of such services.

(3) If the district attorney certifies in writing that it is necessary or desirable, the sheriff or deputy sheriff may be accompanied and assisted in retaining custody of any such prisoner, by one or more other deputy sheriffs, who shall be entitled for such services to compensation at the rate of \$5 per day, unless a different rate is established by resolution of the county board, and to their necessary and actual expenses. Such compensation and expenses shall be claimed and allowed in the manner provided in sub. (1) and the said certificate of the district attorney shall be attached to the verified account of such deputy for such services.

History: 1977 c. 449.

**59.30 Fees, how collected.** All fees allowed to the sheriff upon the service of an execution or

a writ for the collection of money or judgment for the sale of real estate and advertising thereon shall be collected by virtue of such execution, writ or judgment in the same manner as the sum therein directed to be collected.

**59.31 Fees, how paid.** All fees to which sheriffs or their deputies are entitled for attendance required by law upon any court of record shall be paid out of the treasury of the county wherein such services were rendered in the manner that fees of jurors attending such courts are paid; and whenever any such officer is required to perform any service for the state, which is not chargeable to his county or some officer or person, his account therefor shall be paid out of the state treasury.

**59.32 Excessive fees.** No sheriff, undersheriff or deputy shall directly or indirectly ask, demand or receive for any services or acts to be by him performed in the discharge of any of his official duties any greater fees than are allowed by law; and for the violation of any of the provisions of this section every such officer shall be liable in treble damages to the party aggrieved and shall forfeit not less than twenty-five nor more than two hundred and fifty dollars.

**59.33 Powers after term.** (1) Every sheriff, undersheriff and deputy, compensated for his services by fees or by part salary and part fees, may execute and return all writs, processes and orders in their hands at the expiration of the sheriff's term of office and which such sheriff, undersheriff or deputy has, prior to that time, begun to execute by service, levy, advertisement or the collection of money thereon.

(2) In counties where the compensation of sheriffs, undersheriffs and deputies has been changed from the fee to the salary system as provided by law, the sheriff, immediately upon the expiration of his term, shall turn over to his successor all writs, processes and orders in his hands, or in the hands of his undersheriff or deputies, whether or not such writs, processes and orders have been partly or fully executed or returned, and such successor shall execute and return or complete the execution and return of such writs, processes and orders.

(3) In case of a vacancy in the office of sheriff, of any county, his undersheriff and deputies then in office having then any writ, process or order in their hands shall have the same authority and be under the same obligation to serve, execute and return the same as if such sheriff had continued in office.

**59.34 Coroner; medical examiner; duties.**

The coroner shall:

(1) Take inquest of the dead when required by law, except that in counties having a population of 500,000 or more and all counties which have instituted the medical examiner system such duty and the powers incident thereto shall be vested exclusively in the office of the medical examiner. Appointment to such office in counties having a population of 500,000 or more shall be made by the county board of supervisors under ss. 63.01 to 63.17. In all other counties, appointment shall be made by the county board. Such office may be occupied on a full or part-time basis and shall be paid such compensation as the county board of supervisors by ordinance provides. The medical examiner may appoint such assistants as the county board authorizes. Whenever requested by the court or district attorney, the medical examiner shall testify to facts and conclusions disclosed by autopsies performed by him, at his direction, or in his presence; shall make physical examinations and tests incident to any matter of a criminal nature up for consideration before either court or district attorney when requested so to do; shall testify as an expert for either such court or the state in all matters where such examinations or tests have been made, and perform such other duties of a pathological or medicolegal nature as may be required; and without fees or compensation other than the salary provided.

(2) When there is no sheriff or undersheriff in any county organized for judicial purposes, exercise all the powers and duties of sheriff of his county until a sheriff is elected or appointed and qualified; and when the sheriff for any cause is committed to the jail of his county, be keeper thereof during the time the sheriff remains a prisoner therein.

(3) Serve and execute process of every kind and perform all other duties of the sheriff when the sheriff is a party to the action and whenever the clerk of the circuit court addresses the original or other process in any action to him as provided in s. 59.395 (6), execute the same in like manner as the sheriff might do in other cases; exercise the same powers and proceed in the same manner as prescribed for sheriffs in the performance of similar duties; and in all cases the coroner and his sureties shall be liable in the same manner and to the same extent on his official bonds as sheriffs and their sureties are liable in similar cases.

(4) Perform all other duties required by law.

(5) The duties exercised by the county coroner and not vested in the medical examiner shall be performed by the county clerk.

**History:** 1973 c. 272

See note to 979.20, citing 62 Atty. Gen. 127

See note to art. VI, sec. 4, citing 63 Atty. Gen. 361

Medical examiner ought to be qualified expert in pathology. OAG 13-80.

**59.35 Special counties; deputies and assistants; powers.** (1) The medical examiner and his assistants shall be compensated for the performance of all their official duties by salaries fixed by the county board of supervisors, which shall be in lieu of any other compensation.

(4) The medical examiner and his assistants shall have all the powers of a constable or sheriff to serve subpoenas requiring the attendance of witnesses at any inquest to be held by such medical examiner, or other orders or writs.

**History:** 1973 c. 272

**59.36 Service when no coroner.** Whenever, for any cause, there is a vacancy in the office of coroner, or when the coroner is absent from the county, sick or unable to perform the duties of that office, or for any reason, except the nonpayment of legal fees, refuses to serve and execute legal process against the sheriff in any action commenced in any court of record within the county for which the coroner was or should have been elected, any judge of a court of record or court commissioner of the county may, on proof of the vacancy, sickness, absence or refusal to serve and execute such process, by an order to be endorsed on such process and addressed to him or her, empower any citizen of the county in which such process is to be served and executed to serve and execute the same; and that order shall be sufficient authority to the person therein named to serve and execute such process with like powers, liabilities and fees as the coroner.

**History:** 1977 c. 449.

**59.365 Deputy coroner.** (1) Within 10 days after entering upon the duties of the office, the coroner may appoint one or more proper persons, residents of the county, deputy coroner. Such deputies shall reside in the county for which they are appointed. The coroner may fill vacancies in the office of any such appointees, and may appoint a person to take the place of any deputy who becomes incapable of executing the duties of the office. A person appointed deputy coroner for a regular term or to fill a vacancy or otherwise shall hold office during the pleasure of the coroner. Every appointment of a deputy coroner and every revocation of such appointment shall be in writing and filed and recorded in the office of the clerk of the circuit court. In case of a vacancy in the office of coroner, the chief deputy coroner shall in all things and with like liabilities and penalties execute the duties of such office until the vacancy is filled as provided by law.

(2) The coroner shall be responsible for every default or misconduct in office of his deputy coroner during the term of his office, and after the death, resignation or removal from office of such coroner as well as before; and an action for any such default or misconduct may be prosecuted against such coroner and his sureties on his official bond or against the executors and administrators of such coroner.

(3) The coroner may require his deputy coroner, before entering upon the duties of his office, to execute and deliver to him a bond in such sum and with such sureties as he may require, conditioned for the faithful performance of his official duties; and every default or misconduct of such deputy coroner for which the coroner shall be liable shall be a breach of such bond.

(4) Whenever a medical examiner has been appointed under s. 59.34 (1), this section shall not apply in such counties, nor shall the coroner of such counties be responsible for any default or misconduct in office of such medical examiner.

History: 1973 c. 272; 1975 c. 294, 421.

**59.37 Coroner; fees.** For all services rendered by coroners they shall be allowed the same fees as are allowed to sheriffs for similar services. For confining a sheriff in any house on civil process, fifty cents for each day, to be paid by such sheriff before he shall be entitled to be discharged from such confinement, unless otherwise ordered by the court.

**59.375 Coroner or medical examiner as funeral director, limitation.** No coroner, deputy coroner, medical examiner or assistant medical examiner who is a licensed funeral director or embalmer, an owner or operator of a funeral establishment as defined in s. 445.01, or an employe of a funeral establishment, and no funeral establishment with which such coroner, deputy coroner, medical examiner or assistant medical examiner is associated, shall perform any of the services of a funeral director or embalmer upon the body of any person whose death is required by law to be investigated by such coroner, his deputy, medical examiner or assistant medical examiner. Any person who violates this section shall be fined not more than \$50.

History: 1973 c. 272; 1979 c. 175 s. 53; 1979 c. 221 s. 2202 (45).

**59.38 Clerk of court; deputies; chief deputy; division chief deputies; calendar deputy clerk in certain counties.** (1) COUNTIES OF LESS THAN 500,000 POPULATION. Every clerk of the circuit court shall appoint one or more deputies and the appointments shall be approved

by the majority of circuit judges for the county, but shall be revocable by the clerk at pleasure, except in counties having a population of 500,000 or more. The appointments and revocations shall be in writing and filed in the clerk's office. The deputies shall aid the clerk in the discharge of the clerk's duties. In the absence of the clerk from the office or from the court they may perform all the clerk's duties; or in case of a vacancy by resignation, death, removal or other cause the deputy appointed shall perform all such duties until the vacancy is filled.

(2) COUNTIES OF MORE THAN 500,000 POPULATION. In counties having a population of 500,000 or more the clerk shall appoint one chief deputy and 4 assistant chief deputy clerks, 3 calendar deputy clerks, and one or more deputy clerks as the county board authorizes. The deputy clerks shall aid the clerk in the discharge of the clerk's duties under the supervision of the clerk, the chief deputy clerk and the assistant chief deputy clerks. The appointments of the chief deputy clerk who is exempt from classified civil service and the calendar deputy clerks shall be in writing and filed in the clerk's office. These appointments shall be approved by the chief judge of the judicial administrative district, but are revocable at the pleasure of the clerk. The chief deputy clerk has all powers and duties of assistant chief deputy clerks, deputy clerks, and other court assistants except bailiffs and reporters and in the absence of the clerk from the office or from the court, the chief deputy clerk may perform all of the clerk's duties; or in case of a vacancy by resignation, death, removal or other cause the chief deputy clerk shall perform all such duties until the vacancy is filled.

History: 1975 c. 39, 199; 1977 c. 449.

County civil service ordinance enacted under 59.07 (20) or collective bargaining agreement under 111.70, establishing a procedure to be followed prior to discharge of a classified employe, supersede and modify (1) 63 Atty. Gen. 147.

**59.39 Clerk of court; to keep court papers, books and records.** The clerk of circuit court shall:

(1) File and keep all papers properly deposited with him in every action or proceeding unless required to transmit such papers. If such papers have been filed for 10 years a microfilm record may be retained in lieu of the original papers and such papers may be destroyed upon compliance with ss. 59.715 to 59.717.

(2) Keep a court record and write therein names of parties in every civil action or proceeding in the court, the names of attorneys representing the parties, a brief statement of the nature of the action or proceeding, the date of filing every paper therein and of each proceeding taken, the file wherein the papers can be found, the time when put on the calendar for

trial, and when and how disposed of; the location where minutes in every case can be found and the place in the judgment record or microfilm file where any judgment, order or report has been recorded, so as to make the court record a history in brief of each action or proceeding from beginning to final disposition; and a complete index of all proceedings therein.

(3) Keep a criminal record and write therein a history in every criminal action like the court record in civil actions and proceedings with references to the file where papers in the action can be found, to the minute record and to the information record where indictments and informations can be found.

(4) Keep a minute record and, except for actions under ch. 799, write therein a brief statement of all proceedings in open court showing motions and orders during trial, names of witnesses, jurors drawn, the officer sworn to take them in charge, jury verdicts and openings and adjournments of court. The clerk, in lieu of keeping a minute record, may elect to incorporate in the appropriate court record, civil or criminal, the data which this subsection requires to be recorded.

(5) Keep a judgment record or a microfilm file and record therein all judgments, orders or reports in civil actions or proceedings which purport to finally dispose of an action or proceeding or which the judge orders to be recorded.

(6) Keep an information record or a microfilm file and record therein all indictments and informations.

(7) Keep a judgment record and docket therein all money judgments of the court, transcripts from judgment dockets of other Wisconsin courts and of federal courts, warrants for unemployment compensation and warrants for delinquent Wisconsin income taxes.

(8) Keep a lien record and docket therein all claims for liens filed by contractors, subcontractors, materialmen and laborers and all claims filed for log, mining and maintenance liens.

(9) Keep an index or indices to: the court record, the criminal record, the judgment record and the lien record.

(9m) Keep a record of all payments and arrearages in payments ordered by the court under s. 52.05, 52.055, 767.25 to 767.265 or 767.29 (1).

(10) File, docket, record and keep such other papers, books and records as are required by law.

**History:** 1971 c. 97; 1977 c. 105 s. 60; 1977 c. 449; 1979 c. 32 s. 92 (4), (16).

See note to 807.08, citing OAG 17-80

**59.395 Clerk of court; duties.** The clerk of circuit court shall:

(1) Keep court papers, books and records as specified in s. 59.39.

(2) Keep a book or books called registers of officials and write or copy therein in tabular form the names of court commissioners, deputy sheriffs, notaries public and municipal judges. In addition to the names of the above officers the clerk shall list the dates of their qualification and the commencement and termination, if any, of their terms. Such names shall be in alphabetical order or there shall be an index in alphabetical order to such names.

(3) Keep a book or books called certificate lists and write or copy therein a list of all certificates issued by him to witnesses, interpreters, jurors, sheriffs, deputy sheriffs and deputy clerks, stating the persons to whom issued, the number, date and amount of each certificate. A certified copy of such list for the previous year shall be furnished to the county board at each annual session and shall be entered in full on the board records.

(4) Send to the secretary of state on or before June 1 of each year certified lists of all municipal judges who filed their official bonds during the preceding year.

(5) Pay monthly to the county treasurer for the use of the state the state tax required to be paid on each civil action, cognovit judgment and special proceeding filed during the preceding month and pay monthly to the county treasurer for the use of the state the amount for court imposed fines and forfeitures required by law to be deposited in the state treasury, the amounts required by s. 165.87 (2) (b) for the penalty assessment surcharge, the amounts required by s. 973.055 for the domestic abuse assessment surcharge, the amounts required under s. 29.997 (1) (d) for the natural resources assessment surcharge and the amounts required under s. 29.998 (1) (d) for the natural resources restitution payments. The payments shall be made by the 15th day of the month following receipt thereof.

(6) Address process to the coroner if a party, his agent or attorney files an affidavit that he believes the sheriff will not properly perform his duty in such action.

(7) Perform such other duties as required by law.

**History:** 1977 c. 29; 1977 c. 305 s. 64; 1977 c. 418, 449; 1979 c. 34, 111.

**Cross References:** Furnish information to the state registrar of vital statistics, 69.336 and 69.52.

Collect and disburse maintenance and support payments, ch. 767.

Furnish information to the judicial council, 758.13.

Authenticate, certify and transmit documents, 753.30, 801.61, 809.15, 889.08 and 889.09.

Receive bail as provided by law, ch. 818 and ch. 969.

Perform duties with respect to jurors, ch. 756  
 Care for county law library, 757.40  
 Tax costs and collect fees, ch. 814, s. 59.42  
 Issue executions and writs of assistance, ch. 815  
 Issue and sign subpoenas, s. 885.01  
 Keep a lien docket, 788.07.

A clerk of court who customarily supplies an affidavit form to persons claiming witness fees cannot refuse one to a person whom he believes not entitled to such fees. *State ex rel. Hurley v. Schmidley*, 48 W (2d) 659, 180 NW (2d) 605.

Section 59.42 (14) would not permit clerk of courts to temporarily invest money being held pending court appearance and trial in connection with traffic and municipal ordinance violations. 63 Atty. Gen. 56.

**59.40 Not to act as attorney.** No person acting as clerk of any circuit court in this state may practice as attorney or solicitor in the court in which the person is acting as clerk; and the person shall not be eligible for the office of municipal judge during the time the person holds the office of the clerk.

**History:** 1977 c. 305, 449

See note to 865.065, citing 63 Atty. Gen. 55.

**59.42 Clerk of court; fees.** Notwithstanding other provisions in the statutes or session laws, the clerk of circuit court shall collect the following fees:

**(1) CRIMINAL ACTIONS.** In criminal actions, upon disposition of such actions, for all necessary filing, entering, docketing and recording:

(a) If there is a dismissal or plea of guilty or no contest, \$6;

(b) If there is a plea of not guilty and a trial before the court without a jury, \$10;

(c) If there is a plea of not guilty and a jury trial, \$15;

(d) If criminal fees are lawfully retained by the clerk as part of his or her compensation, the foregoing fees, if not assessed against the defendant and paid by him or her, shall be paid by the county.

(e) An additional fee of \$3 shall be assessed against the defendant and when paid by him or her shall be paid into the state treasury.

**(2) CIVIL ACTIONS.** In civil actions and cognovit judgments at the times indicated below, for all necessary filing, entering, docketing and recording, drawing of jurors, swearing of witnesses, jurors and officers to take charge of jurors, placing cases on the calendar and taxing costs (but no fee other than suit tax shall be paid by counties, municipalities or school districts initially or upon change of venue, nor shall fees other than suit tax be paid in judicial reviews of orders or awards of the department of industry, labor and human relations or of the labor and industry review commission; the state shall pay fees but no suit tax):

Kind of action or proceeding (At time of filing initial document required for commencement of action or proceeding in addition to state tax)

(a) Cognovit, \$6.

(b) All special proceedings independent of an action taken at the instance and for the benefit of one party without notice to or contest by any person adversely interested, \$4.

(c) All other actions and special proceedings, \$8.

(d) An additional fee of \$12 shall be assessed against a party initiating an action affecting marriage.

**(3) CHANGE OF VENUE; APPEAL.** On a change of venue at commencement in the court to which the action is transferred (no suit tax), \$5; on filing an appeal from a municipal court, \$5 plus suit tax.

**(4) FOREIGN JUDGMENT.** On filing of a foreign judgment under s. 806.24, \$5.

**(6) WRITS; EXECUTIONS.** For issuing any writ not commencing an action or special proceeding, or issuing an execution, \$1.

**(7) CERTIFICATES; COMMISSIONS.** Except as provided in sub. (13), for issuing certificates (including seals), or commissions to take depositions, 50 cents.

**(8) JUDGMENTS; LIENS; WARRANTS.** For issuing, filing and docketing in connection with all transcripts, certified copies and satisfactions of judgments, claims for contractors, subcontractors, materialmen, maintenance and other liens, delinquent state income tax warrants and unemployment compensation warrants the following amounts:

(a) Issuing transcripts from judgment docket, \$1;

(b) Filing and docketing transcripts from judgment docket of any court or delinquent income tax or unemployment compensation warrants, \$2;

(c) Filing and docketing assignments or satisfactions of judgments or warrants, or assignment or satisfaction of any lien, \$1;

(d) Filing and docketing liens, \$1;

(e) Filing and docketing certified copies of judgments or judgment rolls for enforcing real estate judgments rendered in other courts of the state, \$3;

(f) Filing and docketing judgment on award of department of industry, labor and human relations, \$2.

**(9) TRANSMITTING DOCUMENTS.** (a) For certifying and transmitting documents upon appeals, writs of error, changes of venue, for enforcing real estate judgments in other counties, or for enforcing judgments in other states, in addition to postage, \$2.

(b) For returning to the circuit court the case file, and any transcript or agreed statement, and statement as to a law question only, pursuant to s. 299.30 (4), 50 cents.

**(10) DISBURSING MONEY.** (a) For receiving money deposited by a debtor for payment of a judgment or receiving and disbursing a trust fund, such sum as the presiding judge may direct.

(b) For receiving and disbursing money deposited as payment for maintenance payments, support money or other contribution pursuant to judgment, court order or stipulation in connection with any divorce, illegitimacy or other domestic relations action or proceeding, such annual sum not more than \$10 as the judge may direct. The sum to be paid shall be collected by December 31 of each year from the party ordered to pay and failure to pay shall be reviewed by the family court commissioner or the judge in proceedings instituted to compel payment by the district attorney or corporation counsel, if there is one, of a county.

**(11) BONDS AND UNDERTAKINGS.** For approving any bond or undertaking, 25 cents.

**(12) NOTARY CERTIFICATES.** For filing certificates of notaries public, 50 cents.

**(13) CERTIFIED COPIES.** For certified copies of any document for which a specific fee is not established in this section, per page 50 cents if prepared by the clerk, 25 cents if only compared by the clerk, but in no case less than \$1. If a photostatic copy is furnished by the applicant the fee for certifying the same shall be \$1 regardless of the number of pages. There is no additional charge for the certificate.

**(14) INVESTMENT OF FUNDS.** (a) Except as provided in par. (b), the clerk may invest any funds paid into his or her office and which are being held for repayment. The investments shall be made in suitably protected accounts in the manner specified in s. 66.04 (2) and all income that may accrue shall be paid into the county general fund.

(b) A judge may direct that par. (a) does not apply to certain funds paid into the office. The judge's authority applies only to funds relating to cases before his or her court.

**History:** 1971 c. 164 s. 85; 1973 c. 331; Sup. Ct. Order, 67 W (2d) 774; 1975 c. 39, 199; 1977 c. 29; 1977 c. 105 ss. 2, 59; 1977 c. 187, 418, 449; 1979 c. 34; 1979 c. 110 s. 60 (6); 1979 c. 241.

**Cross Reference:** For other specific provisions on clerk of court fees, see 788.19, 788.40 (2), 806.19 (3), 809.25, 812.04 and 815.62. The list may be incomplete.

The fee imposed by sub. (1) (e) applies to all criminal cases and all such fees must be deposited with the state treasurer. 58 Atty. Gen. 142.

As to traffic cases under (1), see note to 345.34, citing 63 Atty. Gen. 328.

**59.43 Payment of filing fee.** The clerk of the circuit court may refuse to accept any paper for

filing or recording until the clerk's fee provided in s. 59.42 or other applicable statute is paid.

**History:** 1977 c. 449

**Cross Reference:** See 71.13 (3) for provision requiring clerk to bill department of revenue twice a year for filings of income tax warrants.

When an appellant attempts to file a petition for review of a departmental order but sends only part of the required suit tax, the clerk does not act reasonably in waiting 16 days until the filing period had expired before notifying the appellant that he would not file the petition until the full fee was paid. *Hamilton v. ILHR Dept. 56 W (2d) 673, 203 NW (2d) 7.*

**59.44 Acting district attorney; assistants in criminal and civil cases.** (1) When there is

no district attorney for the county, or he is absent from the county, or has acted as counsel or attorney for a party accused in relation to the matter of which the accused stands charged and for which he is to be tried, or is near of kin to the party to be tried on a criminal charge, or is unable to attend to his duties, or is serving in the armed forces of the United States, or if the district attorney stands charged with a crime and the governor has not acted under s. 17.11, any judge of a court of record, by an order entered in the record stating the cause therefor, may appoint some suitable person to perform, for the time being, or for the trial of such accused person, the duties of such district attorney, and the person so appointed shall have all the powers of the district attorney while so acting.

(2) Any judge of a court of record may upon application of the district attorney, in the same manner, appoint counsel to assist the district attorney, in the prosecution of persons charged with a crime and in grand jury and John Doe proceedings and in any other investigations.

(3) When there is an unusual amount of civil litigation to which the county is a party or in which it is interested, the circuit court may, on the application of the county board, by order filed with the clerk of said county, appoint an attorney or attorneys to assist the district attorney, and fix his or their compensation.

(4) The court shall fix the amount of compensation for counsel appointed under this section, which shall be such as is customarily charged by attorneys of this state for comparable services, and shall provide for the repayment of disbursements in such sum as the court deems proper.

**History:** 1973 c. 223; 1979 c. 110.

**59.45 Assistants in other than special counties.** The district attorney, except in counties having a population of 200,000 or more, may, when authorized by the county board by a majority of all of its members, appoint one or more assistant district attorneys and a stenographer and a clerk to aid him in the performance of

his duties. Such assistant district attorneys shall be attorneys admitted to practice law in this state. The assistant district attorneys so appointed may perform all the duties of the district attorney. No assistant district attorney so appointed shall be required to give an official bond.

**59.455 Corporation counsel in special counties.** In counties having a population of 500,000 or more there is created the office of corporation counsel, and such assistant corporation counsels, assistants, stenographers and clerks at such salaries as are authorized by the county board of supervisors. The corporation counsel and such assistant corporation counsels shall be attorneys at law licensed to practice in Wisconsin. All of such offices and positions shall be included in the classified civil service of said county. The corporation counsel shall be chosen by the county board from names certified under civil service rules. Assistant corporation counsels, assistants and clerical and stenographic help in said office shall be appointed, under civil service, by the corporation counsel. Assistant corporation counsels shall have, according to their rank and seniority, the powers and duties of the corporation counsel in his absence or disability. The corporation counsel and assistant corporation counsel shall take and file the constitutional oath of office. All persons now occupying in any county the position of corporation counsel and assistant corporation counsels, as well as assistants, stenographers and clerks in said office, by virtue of regular appointment under civil service, who have been in the employ of such county for one year or more prior to May 17, 1957 or who have been in the employ of the county less than one year but by virtue of civil service examination received appointment, shall retain such offices and positions and be deemed regularly appointed thereto under this section and subject to suspension, demotion or discharge under the civil service laws, ordinances and rules and regulations applicable in the county.

See note to 59.07, citing 63 Atty Gen 468.

**59.456 Corporation counsel and district attorney in special counties; duties.** The duties of the corporation counsel and assistant corporation counsels shall be, without restriction because of enumeration, to:

(1) Prosecute and defend all civil actions, proceedings, applications and motions in any court, commission, board, tribunal or body in any jurisdiction of this or other states or of the nation in which his county or any board, commission, committee or officer thereof is interested or a party by virtue of such office; and shall in like manner represent or assist in representing

the state, or any commission, board, agency or tribunal of the state, in such civil actions or proceedings when requested to do so by the attorney general or when the district attorney of said county is required by any statute to do so.

(2) Give advice to the county board, county park commission, county board of public welfare and other boards, commissions, committees, agencies or officers of the county, when requested, in all civil matters in which the county or state is interested or relating to the discharge of the official duties of such board or officers; examine all claims against the county for officers', interpreters', witnesses' and jurors' fees in civil actions and examinations, when presented to the county board, and report in writing thereto as to the liability of the county for any and all claims of whatever nature filed against it; and act as legislative counsel for the county board when so authorized by it.

(3) Serve as legal advisor to the county highway commissioner and county highway committee and draw all papers required in the performance of their duties and attend to all civil legal matters in and out of court where such commissioner or committee is a party or wherein the acquisition of lands for state or county highway purposes is concerned.

(5) Perform all duties in connection with civil matters relating to his county or any agency, board, commission or officer thereof or to the state within said county now or hereafter imposed by any statute upon the district attorney of such county and for such purposes the term "district attorney" wherever it appears in the statutes relating to duties of a civil nature shall, with regard to counties containing a population of 500,000 or more, mean the corporation counsel. Opinions of the corporation counsel shall have the same force and effect as opinions of the district attorney except that in matters relating to elections the district attorney shall have the right of review. After May 17, 1957 the district attorney's powers and duties as to civil matters shall cease to the extent that they are herein or hereafter conferred upon the corporation counsel and the district attorney shall be relieved of the responsibility of performing such duties. The corporation counsel may request the attorney general to consult and advise with him in the same manner as district attorneys under s. 165.25 (3).

(6) It is the responsibility of the district attorney, after September 24, 1965, to institute, commence or appear in all civil actions or special proceedings under ss. 52.10, 806.05 and 971.14, and in all actions or proceedings in circuit courts which are related to or part of criminal prosecutions, and to perform all appropriate duties and

appear whenever the district attorney is designated in matters within chs. 782, 976 and 979 and ss. 51.81 to 51.85, except that the district attorney shall not appear in matters under s. 782.01 (2). The district attorney is also authorized to appear in juvenile matters involving delinquency or neglect, or contributing to either, or violation of traffic laws or ordinances, except that in any such matter the corporation counsel shall appear instead of the district attorney at the request of the court if the judge considers that the interests of justice would be more adequately served. The district attorney is further authorized to appear in a court assigned to exercise jurisdiction under ch. 48 in connection with other matters as requested by the judge. In addition, whenever requested by the county board, the district attorney shall prosecute all violations of county ordinances.

**History:** Sup. Ct. Order, 67 W (2d) 774; 1975 c. 218; 1977 c. 449; 1979 c. 32 s. 92 (11); 1979 c. 310

#### **59.46 Assistants in special counties. (1)**

The district attorney of any county having a population of 200,000 or more may appoint 3 deputy district attorneys and such assistants as may be authorized by the county board. The deputies according to rank have authority to perform all the duties of the district attorney, under the district attorney's direction, and in the absence or disability of the district attorney, the deputies, according to rank, may do and perform all the acts required by law to be performed by the district attorney. The deputies shall each have practiced law in this state at least 2 years prior to appointment, and hold office during the pleasure of the district attorney. The assistants, when appointed, have full authority to perform all the duties of the district attorney, under the district attorney's direction. The district attorney of the county may appoint such temporary counsel as may be authorized by the county board.

(2) The district attorney in any county having a population of 500,000 or more or containing a city of the 2nd or 3rd class may also appoint one or more clerks and one or more stenographers, the number and salary of whom is to be fixed by the board at any meeting thereof.

(3) The district attorney of any county having a population of 500,000 or more or containing a city of the second or third class may appoint such investigators as are authorized by the county board, and the county board may abolish such positions at their pleasure. Such investigators when so appointed shall have general police powers within said county.

**History:** 1977 c. 47.

**59.47 District attorney; duties.** The district attorney shall:

(1) Prosecute or defend all actions, applications or motions, civil or criminal, in the courts of his county in which the state or county is interested or a party; and when the place of trial is changed in any such action or proceeding to another county, prosecute or defend the same in such other county.

(2) Prosecute all criminal actions before any court for her or his county, other than those exercising the police jurisdiction of incorporated cities and villages in cases arising under the charter or ordinances thereof, when requested by the court; and upon request by the court, conduct all criminal examinations which may be had before the court, and prosecute or defend all civil actions before the courts in which the county is interested or a party.

(2m) Give advice to supervisors of soil and water conservation districts and represent them and the district in all matters, proceedings and actions arising under ch. 92.

(3) Give advice to the county board and other officers of his county, when requested, in all matters in which the county or state is interested or relating to the discharge of the official duties of such board or officers; examine all claims against the county for officers', interpreters', witnesses' and jurors' fees in criminal actions and examinations when presented to the county board, and report in writing thereto as to the liability of the county to pay the same.

(4) Attend, when requested by any grand jury, for the purpose of examining witnesses in their presence; give them advice in any legal matter; draw bills of indictment and informations; issue subpoenas and other processes to enforce the attendance of witnesses.

(5) File, on or before the eighth day of November in each year, in the office of the county clerk, an account verified by his affidavit of all money received by him during the preceding year by virtue of his office for fines, recognizances, forfeitures, penalties or costs, specifying the name of each person from whom he may have received the same; the amount received from each and the cause for which the same was paid; and at the same time pay all such money to the county treasurer; and for every neglect or refusal to render such account and pay the money so received by him to the county treasurer he shall forfeit not less than fifty nor more than two hundred dollars.

(6) Attend to the approval of transcripts in cases which he has tried during his term of office after his term of office has expired; for which services so rendered he shall receive compensation from the county where elected, not to

exceed \$25 per day for the time actually expended.

(7) Upon the request and under the supervision and direction of the attorney general, brief and argue all criminal cases brought by appeal or writ of error or certified from his or her county to the court of appeals or supreme court. The district attorney of the county in which the case was filed shall represent the state in any appeal regarding that case which is heard by a single court of appeals judge, as specified in s. 752.31 (3).

(8) Serve as legal adviser to the county highway commissioner and draw all papers required in the performance of the commissioner's duties, and attend to all legal matters in and out of court where such commissioner shall be a party.

(9) Enforce the provisions of ss. 100.22 and 100.23, by appropriate actions in courts of competent jurisdiction.

(10) To enforce the provisions of all general orders of the department of industry, labor and human relations relating to the sale, transportation and storage of explosives.

(11) Perform any duties in connection with court proceedings in a court assigned to exercise jurisdiction under ch. 48 as the judge may request.

(12) Enforce s. 103.92 (4) as requested by the department of industry, labor and human relations.

(13) Prosecute, if necessary, any action arising from a consumer complaint referred by a consumer protection agency under s. 59.073.

(14) Cooperate, as necessary, with the county and the department of health and social services in establishing paternity and establishing and enforcing child support under the child support and establishment of paternity program under s. 46.25, including, but not limited to, representation of individuals not receiving assistance under s. 49.19. Upon the request and under the supervision and direction of the attorney general, brief and argue all such cases brought by appeal or writ of error or certified from his or her county to the court of appeals or supreme court.

**History:** 1977 c. 17, 187, 251, 449; 1979 c. 221.

**Cross Reference:** See 74.11 (6) for duty of district attorney in collecting personal property taxes

Coexistence of municipal ordinance and state statute which proscribe same conduct does not unconstitutionally influence district attorney's prosecutorial discretion. *State v. Karpinski*, 92 W (2d) 599, 285 NW (2d) 729 (1979).

Offices of district attorney and family court commissioner are separate but compatible in counties under 40,000. Incumbent entitled to separate salaries. 61 Atty Gen 443

The duties of the district attorney under (11) relate only to appearing and assisting in juvenile court proceedings. Such duties normally do not include the performance of ministerial or clerical functions in drafting juvenile court petitions. 62 Atty Gen. 273.

District attorneys cannot properly refuse to prosecute state actions when such refusal is based on consideration of the ultimate disposition of the proceeds from such actions. 64 Atty Gen. 157.

**59.475 Shawano county district attorney for Menominee county.** Menominee county is attached to Shawano county for judicial purposes to the extent of the office and functions of the district attorney, and the district attorney of Shawano county shall serve as district attorney for Menominee county with all the duties, rights and powers of district attorney therein, and no district attorney may be elected in Menominee county, the county not being organized for that purpose. The county board of Menominee county may, however, employ a corporation counsel as provided in s. 59.07 (44) and the district attorney's powers and duties in Menominee county shall cease to the extent they are conferred upon the corporation counsel. The county boards of Menominee county and Shawano county shall enter into an agreement on administration of this section and the prorating of expenditures involved, and for such purposes the county board of supervisors of Menominee county may appropriate, levy and collect a sum each year sufficient to pay its share of the expenses. If the 2 county boards are unable to agree on the prorating of expenditure involved, then the circuit judges for the circuit court for Menominee and Shawano counties shall, upon appropriate notice and hearing, determine the prorating of the expenditures on the basis of a fair allocation to each county under such procedures as they prescribe. If the circuit judges are unable to agree, the chief judge of the judicial administrative district shall make the determination. The district attorney of Shawano county shall be on a full-time basis as long as his or her duties include serving as district attorney for Menominee county.

**History:** 1977 c. 449.

**59.48 Not to be city attorney.** It is unlawful for any district attorney of any county having a population of 40,000 or more to hold the office of or act as city attorney of any city in the county of which he is district attorney. If any district attorney violates this section, his office of district attorney shall be deemed vacant.

**59.485 May be town or village attorney.** A district attorney who is not compensated by the county on a full-time basis may serve as town or village attorney, or as city attorney in any county having a population of less than 40,000. In cases where conflicts arise as the result of his being employed by a governmental unit other than the county, the district attorney shall with-

draw from such other employment and shall represent only the interest of the county.

**59.49 Restrictions on district attorney.**

(1) No district attorney may receive any fee or reward from or on behalf of any prosecutor or other individual for services in any prosecution or business to which it is the district attorney's official duty to attend.

(2) No district attorney may be concerned as attorney or counsel for either party, other than for the state or county, in any civil action depending upon the same state of facts upon which any criminal prosecution commenced but undetermined depends.

(3) No district attorney while in office is eligible for or may hold any judicial office whatever, except as follows:

(a) Any district attorney of any county having a population of 40,000 or less may also be the family court commissioner for the county but in that case the person shall be disqualified from acting as district attorney in any action or proceeding involving the same subject matter, in whole or in part, of any action or proceeding in which the person has theretofore acted as family court commissioner and a special prosecutor in relation to the matter shall be appointed under s. 59.44 (1); and

(b) The person shall likewise be disqualified from acting as family court commissioner in any action or proceeding involving the same subject matter, in whole or in part, of any action or proceeding in which the person has theretofore acted as district attorney, and a temporary assistant family court commissioner shall be appointed under s. 767.13 (4), or another attorney shall be appointed to perform the duties of family court commissioner under s. 767.16 in relation to the matter.

(4) No person who acted as district attorney, assistant district attorney or special district attorney for a county at the time of the arrest, examination or indictment of any person charged with a crime in that county may thereafter appear for, or defend that person against the crime charged in the complaint, information or indictment.

**History:** 1977 c. 449; 1979 c. 32 s. 92 (4)

**Cross Reference:** District attorney may not be employed by common carrier or public utility; see 196.675.

**59.50 Register of deeds; deputies.** Every register of deeds shall appoint one or more deputies, who shall hold their office during his pleasure. Such appointment shall be in writing and filed and recorded in his office. Such deputy or deputies shall aid the register in the performance of his duties under his direction, and in case of vacancy or the register's absence or inability

to perform the duties of his office such deputy or deputies shall perform the duties of register until such vacancy is filled or during the continuance of such absence or inability.

**59.51 Register of deeds; duties.** The register of deeds shall:

(1) Record or cause to be recorded in suitable books to be kept in his office, correctly and legibly all deeds, mortgages, maps, instruments and writings authorized by law to be recorded in his office and left with him for that purpose, provided such documents have plainly printed or typewritten thereon the names of the grantors, grantees, witnesses and notary. Any county, by county board resolution duly adopted, may combine the separate books or volumes for deeds, mortgages, miscellaneous instruments, attachments, lis pendens, sales and notices, certificates of organization of corporations, plats or other recorded or filed instruments or classes of documents as long as separate indexes are maintained. Notwithstanding any other provisions of the statutes, any county adopting a system of microfilming or like process pursuant to ch. 228 may substitute the headings, reel and image (frame) for volume and page where recorded and different classes of instruments may be recorded, reproduced or copied on the same reel or part of a reel. All recordings made prior to June 28, 1961, which would have been valid under this paragraph, had this paragraph then been in effect, are hereby validated.

(2) State upon the record of any instrument the number and denomination of all United States internal revenue stamps, if any, affixed thereto.

(3) Keep the several books and indexes hereinafter mentioned in the manner required.

(4) Indorse upon each instrument or writing received by him for record his certificate of the time when it was received, specifying the day, hour and minute of reception and the volume and page where the same is recorded, which shall be evidence of such facts.

(5) Indorse plainly on each instrument received for record, or file as soon as received a number consecutive to the number affixed to the instrument next previously received according to the numbering now established, and to enter the same in the indexes.

(6) Safely keep and return to the party entitled thereto, on demand within a reasonable time, every instrument left with him for record not required by law to be kept in his office.

(7) Register, file and index as directed by law, all marriages contracted and deaths, births and fetal deaths occurring in his county.

(8) Make and deliver to any person, on demand and payment of the legal fees therefor, a copy duly certified, with his official seal affixed, of any record, paper, file, map or plat in his office.

(9) File and safely keep in his office all records, documents and papers of any post of the Grand Army of the Republic and of any historical society in his county.

(10) Keep a book and record therein all certificates of organization of corporations, and all amendments thereof filed or required by law to be recorded in his office, and an alphabetical index of the names of such corporations, with a reference to the number and page of the volume where such writings are recorded respectively.

(11) File, indorse, enter and index all bills of sale not pertaining to security interests and all documents pertaining to security interests in personal property, crops or fixtures which are required or authorized by law to be filed with him. Except as otherwise prescribed by the secretary of state pursuant to ss. 409.403 to 409.406, these documents shall be executed on white or light colored sheets of paper, 8 or 8-1/2 inches wide and 5, 7, 10-1/2 or 14 inches long. Whenever there is offered for filing any document which varies more than one-eighth of an inch from the approved size, or which is not on a standard form prescribed by the secretary of state, then in addition to the regular filing fee an additional filing fee shall be charged by such register of deeds, as prescribed by s. 59.57. No assignment, release or other instrument shall be offered for filing which is executed or indorsed on any other document, but each shall be a separate and distinct document, excepting those assignments or notices thereof printed or written on and immediately following the original agreement or financing statement, offered for filing at the same time, shall be considered as one document. All these documents shall be legibly written, and shall have the names of the debtor and secured party plainly printed or typed thereon and shall provide a space for filing data of the register of deeds on the outside of said document.

(12) Keep these chattel documents in consecutive numerical arrangement, for the inspection of all persons, indorsing on each document the document number and the date and time of reception.

(12m) Upon the filing of a financing statement or other document evidencing the creation of a security interest in personal property or fixtures or in crops growing or to be grown, enter the name of each debtor alphabetically in indices, of which each page shall be divided into columns which shall contain the following infor-

mation: Number of the document, date and time of filing, name and address of debtor, name and address of secured party, name of the document, the amount if any, shown in the document, brief description of property, and the last column set aside for the entry of assignments, continuation statements, termination statements, foreclosure affidavits, extensions and releases pertaining to such financing statements or chattel security documents. If the financing statement evidences the creation of a security interest in fixtures, it also shall be entered in the tract index if one is kept in the county.

(13) Upon the filing of an assignment, continuation statement, termination statement, foreclosure affidavit, extension or release pertaining to a filed financing statement or other chattel security document, enter the document number and the date and time of filing in the appropriate column of the indices referred to in sub. (12m) and on the same line as that on which the entry of the filed financing statement or other chattel security document appears.

(14) The county board of any county may, upon request of the register of deeds, authorize the destruction of all obsolete documents pertaining to chattels antedating by 6 years, including final books of entry.

(14m) A county board may, upon request of the register of deeds, authorize the destruction of all documents pertaining to town mutual insurance companies which were formerly required to be filed under ch. 202, 1971 stats., and which under s. 612.81 no longer have to be filed. At least 60 days prior to the proposed destruction, the register of deeds shall notify in writing the state historical society which may order delivery to it of any records of historical interest. The state historical society may, upon application, waive the notice.

(15) Perform all other duties required of him by law.

(16) In any county where the county board has established a system of recording and indexing by means of electronic data processing or machine printed forms, the process of typing, key punching or other automated machines may be used to replace any handwritten entry or endorsement as described in this section. The various documents and indexes may also be combined into a general document file with one numbering sequence and one index at any time. The term "book" as used in this section if automated equipment is used may include forms, tab or computer printed sheets as well as cards and other supply forms which although processed separately may be bound after preparation.

(17) Record and index writings submitted according to s. 144.44 (4) (b), evidencing that a site for the land disposal of solid waste or a hazardous waste disposal facility will be established on the particular parcel described in the writings.

**History:** 1973 c. 22, 336; 1977 c. 377.

Register of deeds does not have authority to correct original recording of deed made by predecessor. 61 Atty. Gen. 189.

Registers of deeds have no obligation to file or record "common-law liens" or "common-law writs of attachment". OAG 16-80.

#### **59.512 Register of deeds; microfilming.**

Upon the request of the register of deeds, any county, by county board resolution, may authorize the register of deeds to photograph or microfilm records of deeds, mortgages or other instruments relating to real property in accordance with the requirements of s. 889.30 (3) and to store the original records within the county at a place designated by the county board. The storage place for the original records shall be reasonably safe and shall provide for the preservation of the records authorized to be stored under this section. The register of deeds shall keep a photograph or microfilm copy of such records in conveniently accessible files in his office and shall provide for examination of such reproduction in enlarged, easily readable form upon request. Compliance with this section satisfies the requirement of s. 59.51 (1) that the register of deeds shall keep such records in his office. The register of deeds may make certified copies reproduced from an authorized photograph or from the original records.

Registers of deeds in counties under 500,000 cannot utilize microfilming to comply with initial duty to record or file documents unless county board has elected to be controlled by ch. 228, as permitted by 228.07. 59.512 and 889.30 authorize such officer, with county board approval, to make microfilm copies of original records. 60 Atty. Gen. 459.

#### **59.513 Including name of person drafting instrument.**

(1) No instrument by which the title to real estate or any interest therein or lien thereon, is conveyed, created, encumbered, assigned or otherwise disposed of, shall be recorded by the register of deeds unless the name of the person who, or governmental agency which, drafted such instrument is printed, typewritten, stamped or written thereon in a legible manner. An instrument complies with this section if it contains a statement in the following form: "This instrument was drafted by .... (name) ..".

(2) Subsection (1) does not apply to an instrument executed before May 9, 1957, or to:

(a) A decree, order, judgment or writ of any court.

(b) A will or death certificate.

(c) An instrument executed or acknowledged outside of this state.

**Cross Reference:** See 14.38 (14) for requirement that articles of incorporation, amendment, merger, consolidation and statements of dissolution must bear the name of the draftsman of the instrument before it may be filed by the secretary of state.

This section does not apply unless the instrument affects real estate in the manner described in the statute. 63 Atty. Gen. 594.

**59.514 Including tax key number.** In counties having a population of 500,000 or more where tax key numbers are used in the tax roll for taxes based on the value of property in cities, villages or towns, any instrument conveying any interest in real estate located in such municipality shall contain reference to the key number affected. The reference to the key number shall be for informational purposes only and shall not be a requirement for the recording of the instrument. This section shall not apply to any instrument conveying an easement right only.

**History:** 1979 c. 110.

**59.515 Effect of certain omissions in registers' records.** The validity and effect of the record of any instrument in the office of register of deeds shall not be lessened or impaired by the fact that the name of any grantor, grantee, witness or notary was not printed or typed on the instrument or by the fact that it does not comply with s. 59.513.

#### **59.516 Required signature and seal on survey document for filing or recording.**

It is unlawful for the register of deeds of any county or any proper public authority to file or record any map, plat, survey or other document within the definition of land surveying, which does not have impressed thereon, and affixed thereto, the personal signature and seal of a registered land surveyor under whose responsible charge the map, plat, survey or other document was prepared. This section does not apply to any deed, contract or other recordable document prepared by an attorney.

**59.52 General index; electronic data processing.** (1) (a) Each register of deeds shall keep a general index, each page of which shall be divided into 9 columns, with heads to the respective columns as follows:

1. Number of instrument.
2. Time of reception.
3. Name of grantor.
4. Name of grantee.
5. Description of land.
6. Name of instrument.
7. Volume and page where recorded.
8. To whom delivered.
9. Fees received.

(b) He shall make correct entries in said index of every instrument or writing received by him for record, under the respective and appropriate heads, entering the names of the grantors in alphabetical order; and he shall immediately upon the receipt of any such instrument or writing for record enter in the appropriate column, and in the order of time in which it was received, the day, hour and minute of reception; and the same shall be considered as recorded at the time so noted. Wherever any register has made in any index required by law to be kept in his office, in the index column provided for describing the land affected by the instrument indexed, the words "see record," "see deed," "see mortgage," or other instrument, as the case may be, such entry shall be a sufficient reference to the record of such instrument if it be in fact recorded at large in the place so referred to.

(2) Whenever a county board has established a system of recording and indexing documents by means of electronic data processing or machine printed forms or cards, general alphabetic and numerical indexes without prebound books may be substituted for daily alphabetic and numerical indexes.

**59.53 Index of records.** (1) (a) He shall keep an index of all records or files kept in his office showing the number of the instrument or writing consecutively, the kind of instrument and where the same is recorded or filed, arranged in 3 columns, headed "Number of instrument", "Kind of instrument" and "Where recorded or filed". The 3rd column shall be subdivided into 3 subcolumns headed "Volume", "Page" and "Letters of file".

(b) He shall also keep another index showing the number of the instrument, the names of the grantees in each instrument or writing in alphabetical order, the names of the grantors, the volume and page where the same is recorded and the name of the instrument or writing.

(2) Whenever a county board has established a system of recording and indexing documents by means of electronic data processing or machine printed forms or cards, general alphabetic and numerical indexes without prebound books may be substituted for the index as provided in this section.

**59.54 Record of attachments, lis pendens, etc.** He shall keep a separate book or register divided into columns with appropriate headings, in which he shall enter an abstract of every writ of attachment or copy thereof and certificate of real estate attached, of every certificate of sale of real estate, and of every notice of the pendency of any action affecting real

estate, which may be filed pursuant to law in his office, specifying the day, hour and minute of his reception thereof, the names of the several parties mentioned therein, designating separately plaintiffs and defendants; the names of the attorneys of the respective parties; the date when the land was sold; the description of all such real estate mentioned, and the amount of indebtedness claimed in any such writ, and the amount for which any such land was sold; and he shall keep for each such book an index, showing in alphabetical order, separately, the names of each party plaintiff and each party defendant, and the page on which such name is found, and shall file and carefully preserve in his office every such paper received. When a notice of the pendency of an action for the foreclosure of a mortgage is filed he shall enter upon the margin of the record of such mortgage a memorandum of the filing of such notice and of the date thereof.

**59.55 Tract index system; power to alter.**

(1) The register shall also keep a tract index in suitable books, so ruled and arranged that opposite to the description of each quarter section, sectional lot, town, city or village lot or other subdivision of land in the county, which a convenient arrangement may require to be noted, there shall be a blank space of at least forty square inches in which he shall enter in ink the letter or numeral indicating each volume, and the class of records of such volume designating mortgages by the letter M, deeds by the letter D, and miscellaneous by the abbreviation Mis., and the register of attachments, sales and notices by the letter R, together with the page of said volume upon which any deed, mortgage or other instrument affecting the title to or mentioning such tract or any part thereof shall heretofore have been or may hereafter be recorded or entered; provided, that no such index shall be kept in any county where none now exists until ordered by the county board to be made; but no such index, when once made in any county, shall ever thereafter be discontinued, unless such county has or shall adopt, keep and maintain a complete abstract of title to the real estate therein as a part of the records of the office of the register of deeds thereof.

(2) In any county having a population of 500,000 or more, the county board of supervisors may, by resolution, adopt a more complete system of tract indices than that above specified, or a system of chain of title indices, provided such system be clearly specified in such resolution; and may thereafter at any time before the completion of such system alter or change such system or add to the same by resolution clearly

specifying such alterations, changes or additions. In the event of such adoption, said board of supervisors may contract, with any suitable person, to compile and complete such system of indices, and may make supplemental contracts for the compilation and completion of such alterations, changes and additions, and may levy such taxes as may be required to cover the cost of so doing; said register of deeds shall not be required to compile, install or complete such system of indices or such alterations, changes or additions, but shall after the same be so completed under such contract, or contracts of such board of supervisors, thereafter maintain and keep up the same; and, thereafter shall discontinue all other tract indices theretofore in use or maintained.

(3) If a system of tract indices or of a system of chain of title indices is adopted by the county board of supervisors by resolution, and if the resolution provides that the index shall include an abstract or notation of any proceeding or proceedings pending, of any instruments or documents filed or entered in the office of the clerk of any court of the county, the circuit court or the register of probate or of any sales for taxes made by any officer of the county or any city in the county, and calls for a daily report to be made to the register of deeds of the county by any officer in charge of such proceedings, instruments or documents or tax sales, each office so called upon by the resolution to make a daily report, shall, upon the close of business on each day report, in writing, under his or her hand, to the register of deeds, any and all proceedings, instruments and documents, and tax sales, called for by the resolution, and the register shall, when required to maintain and keep up the system of indices, note all the proceedings, instruments and documents, and tax sales upon the indices, in accordance with the resolution.

(4) Whenever in the judgment of the county board of any county any existing tract index or indices become unfit for use, because of mistake therein or of imperfection in or insufficiency of plan, or because of becoming worn, overcrowded, or unserviceable or unreliable for any reason the county board may at any meeting thereof, by resolution, order a new and corrected set of tract indices arranged and compiled according to such plan as it may authorize, and in that behalf may purchase suitable books and receive bids and contract with any competent person to do said work, at a price not exceeding five cents per folio, which shall be paid out of the county treasury on acceptance of said work by the county board. The person contracting to do said work, and his assistants, shall have access to and be entitled to the use of the old tract indices and other records in the register's office and

other county records; and when said work is completed and said new tract indices are approved and adopted by the county board, the old tract indices shall be preserved as provided in s. 59.71 (2). The resolutions of the county board ordering, approving, and adopting such new tract indices, duly certified by the county clerk, shall be recorded in each volume of such new tract indices; and thereupon the same shall become and be the only lawful tract indices in the register's office.

**History:** 1977 c. 449

In a county maintaining a tract index system, the register of deeds must enter into the index any deed, mortgage or other instrument recorded in his office which affects title to or mentions an indexed tract or any part thereof. 63 Atty. Gen. 254.

**59.56 Special counties; record of changes in streets, alleys, etc.** In counties having a population of two hundred and fifty thousand or more according to the last state or United States census, and when the county board has prepared and compiled in book form an eminent domain record containing an abstract of facts relating to the laying out, widening, extending or vacating any street, alley, water channel, park, highway or other public place by any court, legislature, county board, common council, village board or town board and shall make an order that such records with an index thereto be thereafter maintained and kept up, and provide a suitable book for that purpose, the register of deeds shall thereafter maintain and keep such book in which shall be entered an abstract of all proceedings relating to the laying out, widening, extending or vacating any street, alley, water channel, park, highway or other public place by any court, county board, common council, village board or town board. Such abstract shall substantially contain the facts as to the filing of a notice of lis pendens, the date of filing, the description, the court in which or the body before whom the proceeding is pending, the result of the proceedings, the action taken and the date thereof and briefly all the essential facts of any such proceeding, and such records shall have a practical index, with reference to the number and page of the volume where such abstracts are entered respectively. The abstracts and records to be kept by the register of deeds shall by him be certified to be true and correct and when so certified shall be prima facie evidence of the facts therein recited and shall be received in all courts and places with the same effect as the original proceedings; and the record so prepared and compiled by the county board shall be prima facie evidence of the facts therein recited and shall also be received in all courts and places with the same effect as the original proceedings.

**59.57 Register of deeds; fees.** Every register of deeds shall receive the following fees:

(1) (a) For recording any instrument entitled to be recorded in the office of the register of deeds, \$2 for one page (first page) and \$1 for each additional page. One "page" is one side of a single sheet of paper not larger than 8-1/2 by 14 inches using type not smaller than 6-point type. Each rider attached to a document shall be considered an additional page.

(ab) An extra charge of 50 cents per mortgage shall be made for any mortgage over one in number, assigned, partially released or satisfied by recording a single instrument.

(am) An additional charge of 10 cents shall be made for every entry in the tract index in excess of 5.

(c) In the event of conflict in the statutes regarding recording fees, pars. (a), (ab) and (am) shall control.

(3) For filing and entering any writ of attachment or copy thereof, with the certificates of the officer, or any certificate of sale, or any notice of the pendency of any action containing not more than 20 defendants, \$2, and \$1 for every additional 20 defendants in any such notice affecting from one to 5 lots, and 10 cents for each additional lot.

(4) For copies of any records or papers, the same fees as set forth in sub. (1) (a), plus 25 cents for his certificate.

(5) Notwithstanding any other provision of law the register of deeds with the approval and consent of the county board may enter into contracts with municipalities, private corporations, associations, and other persons to provide noncertified copies of the complete daily recordings and filings of documents pertaining to real property for a consideration to be determined by the county board which in no event shall be less than cost of labor and material plus a reasonable allowance for plant and depreciation of equipment used.

(5m) For filing pursuant to s. 342.20 (4) the original memorandum that a security interest has been noted upon a certificate of title, and any subsequent memoranda concerning the release or assignment of such security interest, a single fee of 50 cents.

(6) For filing and entering each bill of sale not pertaining to a security interest and each document pertaining to security interests in personal property, crops or fixtures which is required or authorized by law to be filed with him, \$2, except as otherwise provided in ss. 409.403 to 409.406. For performing functions under s. 409.407, the register shall charge the fees stated in that section. A financing statement and an assignment or notice of assignment of the secur-

ity interest, offered for filing at the same time, shall be considered as only one document for the purpose of this subsection. Whenever there is offered for filing any document which is not on a standard form prescribed by the secretary of state or which varies more than one-eighth of an inch from the approved size as prescribed by s. 59.51, the appropriate fee specified in ss. 409.403 to 409.406 or an additional filing fee of one-half the regular fee, whichever is applicable, shall be charged by such register.

(6a) For the filing of any other instrument where no specific fee is provided, \$2.

(7) Fees for processing vital records or issuing copies of vital records shall be as provided in ch. 69.

(9) For making a new tract index upon the order of the county board, such sum as is fixed by the county board, not exceeding 10 cents for each entry, to be paid from the county treasury.

(10) For recording plats containing from one to fifty lots, twenty-five dollars, and for each additional lot, ten cents, except cemetery plats, containing from one to two hundred lots or fractional part thereof, twenty-five dollars, and for each additional two hundred lots or fractional part thereof, five dollars.

(10m) For recording certificates and preparing and mailing documents under s. 867.045, \$10.

(12) All the foregoing fees to be payable in advance by the party procuring such services, except that the fees for such services performed for a state department, board or commission shall be invoiced monthly to such department, board or commission.

(12a) Whenever any instrument is presented for recording which is larger than 8 1/2 by 14 inches or if the type is smaller than 6-point, the fee for recording such instrument shall be twice that per page as set forth in sub. (1) (a).

(15) For the filing of any papers specified in s. 69.225, \$1.

History: 1971 c 125 s 524; 1973 c 41, 68, 336; 1979 c 221, 223

Cross Reference: See 779.97 for fees for filing federal liens and releases of liens.

**59.575 Certifications and filings for veterans; no charge.** (1) The term "veteran" as used in this section means "veteran" as defined in s. 45.37 (1a).

(2) No fee shall be charged by any register of deeds, clerk of circuit court or any other public officer, either state, county or local, having custody of statistical records, for the making and certifying of copies, or examining proofs of any public record or instrument, required for or in connection with, the filing of any claim or application with the United States Veterans

Administration or any other federal agency, or to any state agency, or to the regularly established agency of any state, for benefits under federal or state laws, by a veteran or by any dependent of a veteran, when certified proof is required in connection with any claim or application for benefits, under federal or state laws, to which such veteran, or a dependent of a veteran, either living or dead, may be required to file, except, that in the counties where the register of deeds or clerk of circuit court is under the fee system and not a fixed salary, the usual fee for such service shall be paid by the county to the proper officer. The provisions of this section shall supersede any provision of law in conflict therewith.

**59.58 County abstractor; appointment; duties; fees.** (1) Whenever any county adopts a tract index system or any recognized chain of title system, the county board thereof may create a department to be known as an abstract department, either in connection with or independent of the office of the register of deeds, as said county board deems advisable and may appoint a competent person for a term of two years, who shall be known as the county abstractor, and shall have charge of and operate said abstract department. The board shall furnish a seal for said abstractor, who shall place said seal on each and every abstract issued by him.

(2) The register of deeds shall be eligible to the office of county abstractor and may hold both offices at the same time.

(3) The county abstractor shall at all times on demand of any person, and on payment of the fee therefor, make and deliver to any such person an abstract of title to any land in such county.

(4) The county board shall fix the salary of said abstractor, provide such clerical assistance as may be necessary and fix their compensation and shall fix the fees to be received for the compiling and furnishing of abstracts and may at any time prescribe regulations for the operation and conduct of said department. All fees received for the compiling and furnishing of abstracts shall be paid into the county treasury.

(5) The county board may by two-thirds vote of all the members of said board discontinue the furnishing of abstracts.

**59.59 Surveyor; deputies.** The county surveyor may appoint and remove deputies at will on filing a certificate thereof with the county clerk.

**59.60 Surveyor; duties.** The county surveyor shall:

(1) Execute, by himself or a deputy, any and all surveys required by the county or by any court. Surveys for individuals or corporations may be executed at the county surveyor's discretion.

(2) Make by himself or a deputy a record in books or on drawings and plats kept therefor, of all corners set and the manner of fixing the same and of all bearings and the distances of all courses run, of each survey made by him, his deputies, or other land surveyors and so arrange or index the same as to be easy of reference and file and preserve in his office the original field notes and calculation thereof; and within 60 days after completing any survey, make a true and correct copy of the foregoing record, in record books or on reproducible papers to be furnished by the county and kept in file in the office of the county surveyor to be provided by the county.

(3) Furnish a copy of any record, plat or paper in his office to any person on demand and payment to the county of the legal fees therefor.

(4) Administer to every survey assistant engaged in any survey, before commencing their duties as such, an oath or affirmation faithfully and impartially to discharge the duties of survey assistant, and the surveyor and his deputies are empowered to administer the same.

(5) Perform such other duties as are required by law.

(6) Surveys for individuals or corporations may be performed by any land surveyor who is employed by the parties requiring his services, providing that within 60 days after completing any survey he files a true and correct copy of the survey in the office of the county surveyor. In counties having a population of 500,000 or more the copy shall be filed in the office of the register of deeds.

**59.61 How bearings expressed in surveys.** In all surveys the bearings shall be expressed with reference to a magnetic, true or other identifiable meridian or line of the public land survey, recorded subdivision or to the Wisconsin coordinate system. In all cases the reference selected shall be so noted as set forth in s. 59.60 (2) and if magnetic must be retracable and identifiable by reference to a monumented line.

**59.62 Subdividing sections.** Whenever a surveyor is required to subdivide a section or smaller subdivision of land established by the United States survey he shall proceed according to the statutes of the United States and the rules

and regulations made by the secretary of the interior in conformity thereto. While so engaged a surveyor and his survey assistants shall not be liable as a trespasser and shall be liable only for any actual damage done to land or property.

**59.63 Relocation and perpetuation of section corners and division lines.** (1) If a majority of all the resident landowners in any section of land within this state desire to establish, relocate or perpetuate any section or other corner of any section, or in the same section a division line of the section, they may make a formal application in writing to the circuit judge for the county in which the land is situated. The circuit judge shall file the application in his or her court and shall within a reasonable time give at least 10 days' notice in writing to the owners of all adjoining lands, if those owners reside in the county where the land is situated and if not, by publication of a class 3 notice, under ch. 985, stating the day and hour when the circuit judge will consider and pass upon such application. The circuit judge shall hear all interested parties and approve or reject the application at that time. If the application is approved, the county clerk shall notify the county surveyor who shall within a reasonable time proceed to make the required survey and location. If a corner is to be perpetuated, the surveyor shall deposit in the proper place a stone or other equally durable material of the dimensions and in the manner and with the markings provided under s. 60.37, and shall also erect witness monuments as provided under s. 59.635. The surveyor shall be paid the cost of the perpetuation from the general fund of the county.

(2) All expense and cost of the publication of the notice and of said survey and perpetuation shall be apportioned by the county clerk among the several pieces or parcels of land in said section upon the basis of the area surveyed and by him included in the next tax roll and shall be collected in the same manner as other taxes are collected.

History: 1977 c. 449.

**59.635 Perpetuation of landmarks.** (1) No landmark, monument, corner post of the government survey or survey made by the county surveyor or survey of public record shall be destroyed, removed, or covered by any material that will make said landmark, monument, or corner post inaccessible for use, without first having erected as hereinafter provided witness or reference monuments for the purpose of identifying the location of such landmark and making a certified copy of the field notes of the survey setting forth all the particulars of the location of said landmark with relation to the

reference or witness monuments so that its location can be determined after its destruction or removal and filing the same in a manner hereinafter provided.

(2) Whenever it becomes necessary to destroy, remove or cover up in such a way that will make it inaccessible for use, any landmark, monument of survey, or corner post within the meaning of this section, the person including employes of governmental agencies who intend to commit such act shall serve written notice upon the county surveyor of the county within which said landmark is located, except that such notice shall also be served upon the city or village engineer if such landmark is located within the corporate limits of a municipality, to the effect that he, or they, deem it necessary to remove or destroy or cover such landmark, giving a legal description of the same together with the reason for doing so. The county surveyor, upon receipt of said notice, shall within a period of not to exceed 30 working days, either by himself or by a deputy, or by the city or village engineer make an inspection of said landmark, and, if he deems it necessary because of the public interests to remove said landmark, he shall erect 4 or more witness monuments or, if within a municipality, may make 2 or more offset marks at places near said landmark and where they will not be disturbed. He shall make a survey and field notes giving a description of the landmark and the witness monuments or offset marks, stating the material and size of the witness monuments and locating the offset marks, the horizontal distance and courses in terms of the references set forth in s. 59.60 (2) that the witness monuments bear from the landmark and, also, of each witness monument to all of the other witness monuments. He may also make notes as to such other objects, natural or artificial, as will enable anyone to locate the position of the landmark. The witness monuments shall be made of durable material of cement, natural stone, iron or other equally durable material, except wood. If iron pipe monuments are used, they shall be made of 2 inch or more galvanized iron pipe not less than 30 inches in length having an iron or brass cap fastened to the top and marked with a cross cut on the top of the cap where the point of measurement is taken. If witness monuments are made of cement, stone or similar material, they shall be not less than 30 inches in length nor less than 5 inches in diameter along the shortest diagonal marked on the top with a cross where the point of measurement is taken. The county surveyor upon completing the survey shall make a certified copy of the field notes of the survey and record it as provided under s. 59.60. The city or village engineer upon completing the survey

shall record the notes in his office, open to the inspection of the public, and shall file a true and correct copy with the county surveyor.

(3) In those counties where there are no county surveyors a petition can be made to the county board by any resident of this state requesting the board to appoint a land surveyor to act in the capacity of the county surveyor. The county board, upon receipt of this petition, shall appoint a land surveyor to act in the capacity of the county surveyor. In counties having a population of 500,000 or more, the county board may appoint a governmental agency to act in the capacity of county surveyor.

(4) The cost of the work of perpetuating the evidence of any landmark under the scope of this section shall be borne by the county or counties proportionally, in which said landmark is located.

(5) Any person who removes, destroys or makes inaccessible any landmark, monument of survey, corner post of government survey, survey made by the county surveyor or survey of public record without first complying with this section shall be fined not to exceed \$1,000 or imprisoned in the county jail for not more than one year.

(5m) Any person who destroys, removes or covers any landmark, monument or corner post rendering them inaccessible for use, without first complying with subs. (1), (2) and (3) shall be liable in damages to the county or counties in which said landmark is located, for the amount of any additional expense incurred by the county or counties because of such destruction, removal or covering.

(6) Every land surveyor and every officer of the department of natural resources and the district attorney shall enforce this section.

(7) Any registered land surveyor employed by the department of transportation or by a county highway department, may, incident to employment as such, assume and perform the duties and act in the capacity of the county surveyor under this section with respect to preservation and perpetuation of landmarks, witness monuments and corner posts upon and along state trunk, county trunk and town highways. Upon completing a survey and perpetuating landmarks and witness monuments under sub. (2) a land surveyor employed by the state shall file the field notes and records in the district office or main office of the department of transportation, and a land surveyor employed by a county shall file the field notes and records in the office of the county highway commissioner, open to inspection by the public, and in either case a true and correct copy of the field notes and records shall be filed with the county surveyor.

(8) The records of the corners of the public land survey may be established and perpetuated in the following manner: commencing on January 1, 1970, and in each calendar year thereafter, the county surveyor or a deputy may check and establish or reestablish and reference at least 5% of all corners originally established in the county by government surveyors, so that within 20 years or less all the original corners will be established or reestablished and thereafter perpetuated.

(10) The county surveyor may employ other land surveyors to assist in this work and may accept checks of references for these corners from any land surveyor.

(11) The cost of perpetuating these corners shall be paid out of the county road and bridge fund or other county fund under s. 83.11.

**History:** 1971 c. 196; 1977 c. 29 s. 1654 (8) (c); 1977 c. 273, 449; 1979 c. 110 s. 60 (12).

Resurveys of the public lands under (8) discussed. 66 Atty. Gen. 134.

City or village engineer acting under (2) need not be registered as land surveyor. 68 Atty. Gen. 185.

**59.64 Certificates and records as evidence.** The certificate and also the official record of the county surveyor when produced by the legal custodian thereof, or any of the county surveyor's deputies, when duly signed by the county surveyor in his or her official capacity, shall be admitted as evidence in any court within the state, but the same may be explained or rebutted by other evidence. If any county surveyor or any of his or her deputies are interested in any tract of land a survey of which becomes necessary, such survey may be executed by any land surveyor to be appointed by the county board.

**History:** 1977 c. 449.

**59.65 Surveyor; fees.** In addition to the regular fees of land surveyors from the parties employing him, the county surveyor may receive a salary from the county.

**History:** 1971 c. 196.

Compensation and duties of elected county surveyor discussed. Possible conflict of interest in public contracts. 60 Atty. Gen. 134.

**59.66 Penalty for nonfeasance.** Any county surveyor, city or village engineer, or any land surveyor who fails or refuses to perform any duty required of him by law shall be fined not less than \$25 nor more than \$50 for each such failure or refusal.

**59.67 County property. (1) HOW HELD.** County property shall be held by the clerk in the name of the county. All property, real or personal, conveyed to the county or its inhabitants or to any person for the use of the county or

its inhabitants is county property; such conveyances have the same effect as if made directly to the county by name.

(2) **EFFECT OF TRANSFER.** All deeds, contracts and agreements made on behalf of the county pursuant to the directions of the board under s. 59.07 (1), when signed and acknowledged by the clerk and the county seal attached, are valid and binding on the county to the extent of the terms of the instrument and the right, title and interest which the county has in the property.

**Cross Reference:** See 75.35 and 75.69 for restrictions on the sale of tax deduced land.

### 59.68 Courthouse and jail; restrictions.

(1) Each county shall provide a courthouse, jail, fireproof offices and other necessary buildings at the county seat and keep them in good repair. Rehabilitation facilities as extensions of the jail and jail extensions under sub. (7) need not be at the county seat.

(2) No jail shall be constructed until the plans and specifications are approved by the department of health and social services.

(3) When the courthouse from any cause becomes unsafe, inconvenient or unfit for holding court, the board shall provide some other convenient building at the county seat for that purpose temporarily, and this building shall then be deemed the courthouse for the time being.

(4) The construction of any courthouse shall be in accordance with plans and specifications accompanied by the certificate of the circuit judge in whose circuit the building is to be erected, to the effect that after consultation with competent experts he is advised and believes that the courtrooms provided for will possess proper acoustical properties. The fee for this advice shall be paid by the county upon the judge's certificate.

(5) Repairs which amount substantially to a reconstruction of a courthouse shall be governed by the same restrictions, so far as practicable.

(6) The personnel required to comply with ss. 53.41 and 53.42 shall be provided at the expense of the county.

(7) A county may establish extensions of the jail, which need not be at the county seat, to serve as places of temporary confinement. No person may be detained in such an extension for more than 24 consecutive hours. Jail extensions shall be subject to plans and specifications approval by the department of health and social services and shall conform to other requirements imposed by law on jails, except that cells may be designed and used for multiple occupancy.

**History:** 1977 c. 7.

**59.685 Annual inspection.** At least once each year the county board of each county, or a committee thereof, shall visit, inspect and examine each jail maintained by such county, as to health, cleanliness and discipline, and the keeper thereof shall lay before it a calendar setting forth the name, age and cause of committal of each prisoner; and if it shall appear to the said board or committee that any of the provisions of law have been violated or neglected it shall forthwith give notice thereof to the district attorney of the county.

**59.69 Fairgrounds and fairs. (1) ACQUISITION; USE.** Land upon which to hold agricultural and industrial fairs and exhibitions may be acquired by county boards and improvements made thereon.

(a) In counties containing less than 500,000 population, the county board may annually, at the same time that other county taxes are levied, levy a tax upon the taxable property of such county not exceeding four-tenths of a mill upon each dollar of the equalized valuation of the taxable property upon which other county taxes are levied and collected.

(b) The board may grant the use of fairgrounds acquired under par. (a) to agricultural and other societies of similar nature for agricultural and industrial fairs and exhibitions, and such other purposes as tend to promote the public welfare, and may receive donations of money, material or labor from any person or municipality for the improvement or purchase of such land. All improvements made on such lands by societies using them may be removed by the societies at any time within 6 months after their right to use the land terminates, unless otherwise agreed in writing between the societies and the county at the time of the making of the improvements.

(c) In counties containing more the 500,000 population, by donation, purchase or condemnation, but not exceeding in value \$150,000, and the board may convey or donate such lands so purchased or acquired or the use thereof to the state of Wisconsin or to agricultural and industrial societies for the purpose of holding thereon agricultural and industrial fairs and exhibitions, and may receive donations of money, material or labor from any person or municipality for the improvement or purchase of such land. If at any time lands or the use thereof so conveyed or donated shall be abandoned or no longer used for the purpose for which such lands or the use thereof were so conveyed or donated, the title to such land shall revert to the county; and the commissioners of public lands, in the case of conveyances or donations to the state, are authorized and directed to execute and deliver such

proper deeds of conveyance as well as revest the title to such lands in such county, and when such lands or the use thereof were conveyed or donated to an agricultural and industrial society, such proper deeds or conveyance shall be executed and delivered by such society by its proper officers. However, the state may at any time within one year after title to any such lands reverts, by proper conveyance in such county, remove any structures erected thereon by or for the state subsequent to the acquisition of such lands by the state.

(2) **AID TO FAIRS.** The board of any county may vote an amount which it deems sufficient to aid in the purchase of, or to make improvements upon the fairgrounds for any organized agricultural society, or to aid any organized agricultural society or any incorporated poultry association in any of its public exhibitions held or to be held; and any amount so voted shall be paid upon demand by the treasurer to the treasurer of such organized agricultural society, who shall keep an accurate record of the expenditure thereof by such society, and file a verified copy of such record with the clerk within one year after the receipt of such amount.

(3) **REFERENDUM ON COUNTY FAIR.** Whenever a majority of the electors upon a referendum in any county have approved thereof, the board may provide for and conduct county fairs and exhibitions and for such purpose may:

(a) Acquire by deed or lease real estate and make improvements thereon.

(b) Appropriate funds for the adequate equipment and the proper management and control of such fair or exhibition.

(c) Adopt rules and regulations for the management and control of such property and of such fair or exhibition and for the appointment and salaries of persons necessary therefor.

*History:* 1973 c. 333.

Possible county liability for 4-H club activities on county fairgrounds discussed. 61 Atty. Gen. 218.

**59.70 Isolation hospitals.** (1) In counties having a population of thirty thousand or more the county board may erect, establish and maintain isolation hospitals or places for the care and treatment of all persons afflicted with infectious, contagious and communicable diseases, requiring isolation and quarantine under the laws of the state, who are inmates of the charitable, penal, correctional and other institutions of said county or who are required to be cared for and treated at the expense of said county. The board may also provide for the care and treatment therein of all persons so afflicted, who are required to be cared for by the various towns, cities and villages in said counties, under such terms, conditions, rules and regulations, as to

apportionment of cost of erection of such buildings and places and the expense of care and treatment of such persons afflicted, as may be agreed upon between the county board and the common council of such cities and the boards of such villages and towns, and each such council or board is hereby vested with power and authority to enter into such contracts and to appropriate such funds as may be necessary to carry into execution all contracts so made.

(2) All isolation hospitals and other places, when so erected or established in counties having a county board of administration, shall be conducted under the control and management of said board in the same manner and to the same extent as other institutions under the control of such board, and in other counties such isolation hospitals and other places shall be conducted under the control and management of the county board. Any resident of this state not indigent may be received into, treated and cared for in such isolation hospital or other place upon such terms and conditions and at such rate or pay as may be established and fixed by the board having charge of such isolation hospital or other place; provided, however, that indigent and destitute sick persons shall be cared for and have preference of admission to such hospitals and places.

**59.71 Records where kept; public examination; rebinding; transcribing.** (1) The books, records, papers and accounts of the county board shall be deposited with the respective county clerks and shall be open without any charge to the examination of all persons.

(2) When any book, public record or the record of any town, village or city plat in any county office shall, from any cause, become unfit for use in whole or in part, the county board shall order that the book, record or plat be rebound or transcribed. If the order is to rebind such book, record or plat, the rebinding must be done under the direction of the officer in charge of the book, record or plat, and in his office. If the order is to transcribe such book, record or plat, the officer having charge of the same shall provide a suitable book for that purpose; and thereupon such officer shall transcribe the same in the book so provided and carefully compare the transcript with the originals, and make the same a correct copy thereof, and shall attach to such transcript a certificate over his official signature that he has carefully compared the matter therein contained with, and that the same is a correct and literal copy of the book, record or plat from which the same was transcribed, naming such book. Such copy of book, record or plat, so certified, shall have the same

effect in all respects as the original, and such original book, record or plat shall be deposited with the county treasurer and carefully preserved except in counties having a population of 500,000 or more where a book containing a tract index is rewritten or transcribed, the original book may be destroyed. The order of the county board directing the transcribing of any book, record or plat duly certified by the county clerk shall, with such certificate, be recorded in each copy of book, record or plat transcribed. The fee of the officer for such service shall be fixed by the board, not exceeding 10 cents per folio, or if such books or any part thereof consist of printed forms, not to exceed 5 cents per folio for such books or records, to be paid by the county.

History: 1971 c. 118

**59.715 Destruction of obsolete county records.** Whenever necessary to gain needed vault and filing space, county or court officers and the custodian of the records of all courts of record in the state may, subject to ss. 59.716 and 59.717, destroy obsolete records in their custody as follows:

(1) Notices of tax apportionment received from the secretary of state, after 3 years.

(2) Copies of notices of tax apportionment sent to local taxing districts by the county clerk, after 3 years.

(3) Records of bounty claims forwarded to the department of natural resources, after one year.

(4) Lists of town, city and village officers certified to the county clerk by the town, city and village clerks, after the date of the expiration of the term listed.

(5) Crop reports made to the county clerk by the local assessors, after 3 years.

(6) Illegal tax certificates charged back to local taxing districts, 3 years after the date of charging back the same.

(7) Notices of application for the taking of tax deeds and certificates of nonoccupancy, proofs of service and tax certificates filed with the county clerk in connection with the taking of tax deeds, after 15 years.

(8) Official bonds, after 6 years.

(9) Claims paid by the county, and papers supporting such claims, after 7 years.

(10) Contracts, notices of taking bids, and insurance policies to which county is a party, 7 years after the last effective day thereof.

(11) Election notices, and proofs of publication and correspondence filed in connection with such notices, one year after the date of the election, except in cases where an election is contested in which case such records shall be

retained until one year after the contest has been settled.

(12) Reports of town treasurers to the county clerk on dog licenses sold and records of dog licenses issued, after 3 years.

(14) County clerk's copies of all receipts issued by the county treasurer, 4 years or until after being competently audited, whichever date is earlier.

(15) Copies of notices given by the county clerk to the town assessors setting out lands owned by the county and lands sold by the county, after 3 years.

(16) Tax receipts, after 15 years.

(17) All other receipts of the county treasurer, after 7 years.

(18) Canceled checks, after 7 years.

(19) Oaths of office, 7 years.

(20) Court records and exhibits in any civil, criminal action and proceeding, or probate proceedings of any nature under the jurisdiction of the courts of record in the state, provided the same shall first be photographed or microphotographed and preserved as provided in s. 889.30 in all cases except exhibits not of a documentary nature:

(a) After 10 years from the entry of a final order or judgment therein, or

(b) After 10 years from the date when the same shall have been commenced; provided that the same shall have been dormant for 10 years and that the destruction thereof shall be authorized by the order of the judge of the court whose records are to be destroyed, or

(c) Upon a written order of the judge of the court, the records of which are to be destroyed, the records and exhibits of that court which the judge deems obsolete and useless, but not including inventories and final accounts of deceased persons, may be destroyed after 10 years as provided in pars. (a) and (b) without being first reproduced, photographed or microphotographed.

(21) Case records and other record material of all public assistance kept as required under ch. 49, if no payments have been made for at least 3 years and if a face sheet or similar record of each case and a financial record of all payments for each aid account are preserved in accordance with rules adopted by the department of health and social services.

(22) After 10 years marriage license applications and records and papers pertaining to the applications, including antenuptial physical examinations and test certificates, consents of parent or guardian for marriage and orders of the court waiving the waiting period.

(23) Books in the office of the register of deeds in counties having a population of 500,000

or more containing copies of deeds, mortgages, other miscellaneous documents and military discharges authorized by law to be recorded in the office if the records first shall be photographed or microphotographed and preserved in accordance with s. 889.30.

**History:** 1971 c. 118; 1979 c. 221.

**Cross Reference:** See 889.30 as to copying of county records on film.

A judge may destroy records of small claims court without making a copy under (20) (c) only if he deems such both obsolete and useless. 61 Atty. Gen. 346.

**59.716 Transfer of obsolete county records.** Prior to destruction of public records under s. 59.715, the proper officers in counties with a population of less than 500,000 shall make a written offer to the historical society under s. 44.09. If the offer is accepted by the society within 60 days, the officers shall transfer title to noncurrent records in their custody as follows:

(1) Original papers, resolutions and reports connected with county board proceedings.

(2) Tax rolls.

(3) Original minutes of the county board.

(4) Records of any court in the state which have been photographed or microphotographed under s. 59.715 (20) or deemed obsolete and useless and ordered destroyed by the judge of the court whose records are to be destroyed as provided in s. 59.715 (20).

**History:** 1979 c. 35.

**59.717 Destruction of county records, when.** If title is not accepted by the historical society within 60 days after a written offer is made under s. 59.716, county officers in counties with a population of less than 500,000 may destroy records as follows:

(1) Original papers, resolutions and reports appearing in county board proceedings, 6 years following the date of first publication of the same in the official proceedings of the board.

(2) Tax rolls, after 15 years.

(3) Records of any court of record in the state which have been photographed or microphotographed under s. 59.715 (20) or deemed obsolete and useless and ordered destroyed by the judge of the court whose records are to be destroyed as provided in s. 59.715 (20).

(4) No assessment roll containing forest crop acreage may be destroyed without the prior approval of the secretary of revenue.

**History:** 1971 c. 215; 1979 c. 35.

**59.72 County auditors; powers; duties.**

(1) In every county the county clerk shall act as auditor, unless a separate office of county auditor is created as provided in sub. (2), and, when

directed by resolution of the county board, shall examine the books and accounts of any county officer, board, commission, committee, trustees or other officer or employe intrusted with the receipt, custody or expenditure of money, or by or on whose certificate any funds appropriated by the county board are authorized to be expended, whether compensated for services by fees or by salary, and all original bills and vouchers on which moneys have been paid out and all receipts of moneys received by them. The clerk shall have free access to such books, accounts, bills, vouchers and receipts as often as may be necessary to perform the duties required under this subsection and he or she shall report in writing the results of the examinations to the county board.

(2) The county board by resolution may create a separate office of county auditor and may fix the compensation of such auditor. The auditor shall perform the duties and have all the powers conferred upon the county clerk as auditor by sub. (1), and shall perform such additional duties and shall have such additional powers as are imposed and conferred upon him or her from time to time by resolution adopted by the board.

(3) If a county auditor's office is created under sub. (1), the chairman of the county board shall appoint a person known to be skilled in matters of public finance and accounting to act as county auditor. Such appointment shall be made under ss. 63.01 to 63.17 and shall be subject to confirmation by the county board. The auditor shall direct the keeping of all of the accounts of such county, in all of its offices, departments and institutions, and shall keep such books of account as may be necessary to properly perform the duties of his or her office. His or her salary and the amount of his or her official bond shall be fixed by the county board. He or she shall perform all duties pertaining to his or her office, and shall have all of the powers and perform all the duties specified and enumerated in sub. (1) and shall perform such other duties as may be imposed by the county board.

(4) The county board by resolution may authorize a county auditor appointed under sub. (3) to appoint a deputy auditor under ss. 63.01 to 63.17 to aid him or her in the discharge of the duties of his or her office, and who, in the absence or disability of the county auditor, or in case of a vacancy in said office, shall perform all the duties of the office of county auditor until such vacancy is filled, or disability is removed. Such deputy shall execute and file an official bond in the same amount as that given by the county auditor.

**History:** 1977 c. 265, 305, 447.

**59.72 COUNTIES**

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This section's effect on county bookkeeping and auditing discussed. 67 Atty. Gen. 248

**59.73 Receipts and deposits of money; accounts.** Every county officer and employe and every board, commission or other body that collects or receives moneys for or in behalf of the county, shall:

(1) Give such receipts therefor and file such duplicates thereof with the county clerk and county treasurer as the county board directs.

(2) Keep books of account and enter therein accurately from day to day with ample description, the items of his official service, and the fees therefor.

(3) Pay all such moneys into the county treasury at such time as is prescribed by law, or if not so prescribed daily or at such intervals as are prescribed by the county board.

(4) Perform all other duties in connection therewith that are prescribed by or pursuant to law.

**59.74 Depositories; designation.** (1) The county board of each county containing two hundred thousand or more population shall designate two or more, and in other counties the county board, or when the occasion arises and the county board is not in session, then a committee of the board which has been authorized to do so shall designate one or more banks, banking institutions, or trust companies organized and doing business under the Wisconsin or United States laws, located in Wisconsin, as county depositories, one or more of which shall be designated as working banks, all deposits in which shall be active deposits.

(2) In addition to the depositories specified in sub. (1), the local government pooled-investment fund may be designated as a depository for investment purposes.

History: 1975 c. 164; 1979 c. 221

See note to 219.05, citing 62 Atty. Gen. 312, as to investments in savings and loan associations.

**59.75 Funds to be placed in depositories; reports; cash balance.** (1) Whenever any county board has designated a county depository under s. 59.74 the county treasurer shall deposit therein as soon as received all funds that come to the treasurer's hands in that capacity in excess of the sum the treasurer is authorized by the board to retain. Any sum on deposit shall be deemed to be in the county treasury, and the treasurer shall not be liable for any loss thereon resulting from the failure or default of such depository. The county board, a committee of the county board designated by it or the county treasurer acting under s. 59.20 (14) may invest any funds that come into the county treasurer's hands in excess of the sum the treasurer is

authorized by the county board to retain for immediate use in the name of the county in the local government pooled-investment fund, in interest-bearing bonds of the United States or of any county or municipality in the state or in any other investment authorized by statute. The board, committee or the county treasurer acting under s. 59.20 (14) may sell such securities when deemed advisable.

(2) Every such depository shall on the first business day of each month, and oftener when required, file with the county clerk a statement of the amount of county money deposited with it during the preceding month, and the treasurer shall at the same time file with such clerk a statement showing the amount of moneys received and disbursed by him during the previous month.

(3) The county board may fix the amount of money which may be retained by the treasurer but in no case shall the sum exceed \$3,000; provided, that in all counties having a population of 200,000 inhabitants or over, the treasurer may retain such sum as may be fixed by the county board.

(4) Such treasurer and clerk, whenever the cash balance does not amount to the sum authorized by the county board to be retained, may increase it to such amount by their check on the county depository or depositories in favor of such treasurer.

History: 1973 c. 286; 1975 c. 164; 1979 c. 34, 221.

**59.76 Claims against counties; actions on.** No action may be brought or maintained against a county upon a claim or cause of action unless the claimant complies with s. 893.80.

History: 1977 c. 285; 1979 c. 323 s. 33.

**59.77 Claims, how made; procedure.** (1) IN GENERAL. Every person, except jurors, witnesses and interpreters, and except physicians or other persons entitled to receive from the county fees for reporting to the register of deeds births or deaths, which have occurred under their care, having any claim against any county shall comply with s. 893.80.

(2) OF COURT OFFICERS, CERTIFIED BY DISTRICT ATTORNEY. No claim for official services, in any criminal action or proceeding before a judge shall be allowed by any county board until the same has been examined and a written report made thereon by the district attorney of the proper county as required by sub. (4); nor shall the claim of any sheriff, undersheriff, deputy sheriff, constable or other such officer for the services or expenses of an assistant in making an arrest or commitment be allowed unless the judge before whom the prisoner is brought certifies that there was a necessity for

such assistance because of the dangerous character of the defendant or because 2 or more persons were arrested at the same time.

(3) **OF JUDICIAL OFFICERS.** Court commissioners shall, on or before the first Monday of November in each year, forward to the county clerk of their respective counties a correct statement of all actions or proceedings had before them, during the year next preceding, in which the county shall have become liable for costs, giving the names of the parties in each action or proceeding, the nature and result of the same, the amount of costs in detail in each case, and what items, if any have been paid and the amount thereof. The county clerk shall file such statements in his or her office. Any such officer who neglects to make and return such statements within the time prescribed in this subsection shall not receive any compensation from the county for any service rendered by him or her in any criminal case or proceeding during the year next preceding the time when the statement is required to be made and returned.

(4) **OF COURT OFFICERS; CERTIFICATION; AUDIT BY DISTRICT ATTORNEY; WAIVER.** Fees of officers, in any action or proceeding before a court commissioner, shall be certified to and allowed by the county board in the manner following, and in no other way:

(a) At least 10 days before the annual meeting of the board every such officer shall make and file with the county clerk a certified statement of all actions or proceedings had or tried before him or her in which the state was a party, and wherein the county has become liable for the fees of officers, within the year next preceding the date of the statement, showing the title and nature of the action or examination, date of trial, the names of all officers, who actually attended court and gave in a statement of their attendance and travel; and also such on the part of the defendant as were allowed against the county, and the amount to which they are severally entitled. The statement shall be substantially in the following form:

STATE OF WISCONSIN

v.

.....

IN .... COURT

Complaint for .....

Before ....., .... Judge.

Heard the .... day of ....., 19..

To the County Board of .... County:

I hereby certify that in the foregoing entitled action the following named persons rendered services therein, and attended before me in the capacity stated, and that they are severally entitled to the amounts specified below for the services, attendance and travel, and that the

services were actually and necessarily rendered, and said action was prosecuted in good faith:

A.B. (constable or sheriff), actually and necessarily traveled in serving the .... herein, .... miles, and attended court .... days, and is entitled to .... dollars for other just and lawful services in the cause, and in all is entitled to .... dollars.

Dated this .... day of ....., 19..

(b) The county clerk shall deliver such statement to the district attorney, who shall examine the same and make a report in writing thereon to the county board, specifying the items in each for which the county is or is not liable, and the extent of its liability if it is liable for a part only of any such item. Such statement and report shall be laid before the county board by the county clerk and in so far as the items charged therein are approved by the district attorney such statement shall be prima facie evidence of the claims of the persons named therein; and the board shall examine the same and allow such as are legal, and direct that orders be drawn for the amount allowed to each person named therein. If any person in whose favor any such order is drawn shall not call for the same within two years from the time his claim is allowed his right to any compensation for his services shall be deemed waived and the county board shall cancel such order.

(5) **OF JURORS, WITNESSES, INTERPRETERS; PENALTY.** Whenever any county is liable for fees of jurors, witnesses on the part of the state or on the part of the defendant, or of interpreters in any action or proceeding before a court commissioner, procedure to secure payment of the same shall be as follows:

(a) The officer before whom the juror, witness or interpreter attended, shall furnish to the person a certificate setting forth the name of the person, the time served, the number of miles traveled by him and the amount of compensation to which he is entitled, together with the title of the action in which he served, the capacity in which he served and the date of service. The certificate shall be dated and signed by the officer and examined and certified to by the district attorney of the county in which the person served.

(b) The person receiving the certificate shall in the presence of the officer issuing the same indorse thereon a certificate that he is the person mentioned therein by the officer, that the time of service, the number of miles traveled and the capacity in which he served are true and correct as therein stated, and that he has not at any time received any compensation therefor.

(c) Upon presentation of the certificate of the officer, together with the certificate of the district attorney and of the person holding the same indorsed thereon as hereinbefore specified,

the county treasurer shall, except in counties having a population of 500,000 or more, pay to the holder of such certificate the amount therein set forth, out of the funds of the county, and the certificate with the indorsement thereon shall be filed in the office of the county treasurer.

(e) The certificate shall then be filed with the county clerk.

(f) Any officer, juror, witness or interpreter who makes or signs any such certificate which is untrue in respect to anything material, which he knows to be false, or which he has not good reason to believe is true shall be punished as provided in s. 946.12.

**(6) FEES FOR STATEMENTS AND CERTIFICATES.** Every court commissioner shall receive from the county treasurer \$1 per page for making statements and returns required by sub. (3) and \$1 for making each certificate required by sub. (4). All such statements and certificates shall be transmitted to the county clerk by certified mail and for transmitting the statements and certificates the court commissioner shall receive \$1.

**(7) COURT COMMISSIONERS.** The county board at any session thereof, either an adjourned or a special session, may as provided in sub. (4) (b) examine and allow any statement, account or claim of any court commissioner which is on file with the county clerk before the opening of the session of the county board.

**(8) PAYMENT OF JUROR, WITNESS, INTERPRETER, ATTORNEY, GUARDIAN AD LITEM AND TRANSCRIPT FEES IN POPULOUS COUNTIES; PENALTY.** Whenever any county having a population of 500,000 or more is liable for juror, witness, interpreter, attorney, guardian ad litem fees on the part of the state or of the defendant in any action or proceeding before a judge of the circuit court or before the medical examiner of such county, the procedure to secure payment of such fees shall be as follows:

(a) The clerk of the respective court, the register of probate, or the medical examiner as the case may be shall issue to such person an order directing the county treasurer to make payment of such fee. Said order shall state the name of the person to whom payable, the time served, the number of miles traveled by him, and the amount of compensation to which he is entitled, together with the title of the action in which such person so served, the capacity in which he served and the date or dates of service, or in case of transcript fees, the title of the action and the dates on which the testimony for such transcript was taken.

(b) The person to whom such certificate or order is issued shall be required to indorse the same prior to receiving payment and thereby

indicate that he is the person mentioned therein, that the number of miles traveled and the capacity in which he served and the work which he performed is true and correct as stated and that he has not at any time received any compensation therefor.

(c) Upon presentation of such certificate or order properly signed and indorsed, the county treasurer of any county having a population of 500,000 or more shall pay to the holder upon surrender thereof the amount therein set forth, and such order or certificate shall thereafter in all other respects be handled by said treasurer in the same manner as all other county orders drawn upon him are handled.

(d) Any judge or court commissioner, juror, witness, interpreter, attorney, guardian ad litem or recipient of transcript fees who makes, signs or indorses any such certificate or order which is untrue in respect to anything material, which he or she knows to be false, or which he or she has not good reason to believe is true, shall be punished as provided in s. 946.12.

**History:** 1973 c. 243; 1975 c. 200; 1977 c. 285, 305, 323, 447, 449; 1979 c. 323 s. 33.

Section 803.08 is inapplicable to procedure for making claims against a county. Multiple claims must identify each claimant and show each claimant's authorization. *Hicks v. Milwaukee County*, 71 W (2d) 401, 238 NW (2d) 509

**59.78 Special counties; classification of claims.** In counties containing a population of more than three hundred thousand, the county auditor shall classify all such claims according to the budgetary funds provided for in s. 59.84, against which they are chargeable, before such claims are laid before such board. He shall then submit with the claims chargeable against each fund, a statement of the balance in such fund against which no county orders have been issued. If such balance in any fund is less than the total of the claims chargeable against such fund, he shall call the attention of the board to that fact, and such board shall not issue county orders in excess of such balance without previously appropriating to such fund an additional sum at least sufficient to cover such orders. If any claims or claim shall be for a purpose for which no specific appropriation has been made in the budget, such claim or claims shall be considered as chargeable against the contingent fund. When the county auditor countersigns any order on the county treasurer for the payment of a claim allowed he shall charge such order against the fund appropriated for that purpose.

**59.79 Action on claims by board.** The county clerk shall, on the first day of any meeting of the county board, lay before said board all such claims, statements of which have been filed

in his office since the last meeting of such board, with a schedule of the same showing the amount thereof and the order in which the same were filed; and the county board shall act upon all such claims before the adjournment of the next annual session of such board after such statements were filed with the clerk, and shall examine and allow or disallow the same in whole or in part unless withdrawn by leave of the board; and in case of the disallowance of a part of an account or other claim composed of separate items the board shall designate particularly each item disallowed; and when the amount allowed for any claim shall have been accepted and received by the claimant, and no action shall be brought to recover the remainder thereof, no further sum shall thereafter be allowed or paid thereon by the county board. The county board, or a committee thereof, for the purpose of ascertaining the facts in relation to any claim presented for their exemption and allowance, may take such testimony as they may deem necessary.

**59.80 Salaries and automobile allowance; when payable.** Salaries of county officers and employes shall be paid at the end of each month, but the county board of any county may authorize the payment of such salaries semimonthly or once in every 2 weeks in such manner as it may determine. Payment for automobile allowance to officers and employes, duly authorized to use privately owned automobiles in their work for the county, shall be made upon certification of the respective department heads in a manner similar to that in which salaries are paid, provided such method of payment of automobile allowance is authorized by ordinance specifically stating the departments to which it shall apply.

**59.81 County orders and scrip. (1) ISSUANCE; LIMITATIONS.** When any claim is allowed by any county board, either in whole or in part, the board shall direct an order to be drawn upon the county treasurer in favor of the claimant for the amount so allowed, but no order except for the per diem and mileage of the members of the board may be drawn in favor of any claimant within 5 days after the allowance of his or her claim. Any person whose claim has been allowed in part may receive the order drawn for the part so allowed without prejudice to his or her right to appeal as to the part disallowed. No county board may issue a greater amount of orders, scrip and certificates of indebtedness than the amount of the county taxes levied in the county for that year. The county board may authorize the issuance of orders, scrip or certifi-

cates of indebtedness at a rate of interest specified thereon, but not to exceed 6% per year; except that the orders, scrip and certificates of indebtedness shall bear no interest if paid and payable within one month from date of issuance, and shall bear no interest after date of publication of redemption notice as provided in this subsection. The county treasurer may publish a class 1 notice, under ch. 985, that the county will redeem certain outstanding orders, scrip or certificates, which notice shall specify the particular orders, scrip or certificates, or series thereof, then redeemable.

**(2) DISBURSEMENTS ON.** In all counties having a population of less than three hundred thousand, all disbursements from the county treasury shall be made by the county treasurer upon the written order of the county clerk after proper vouchers have been filed in the office of the county clerk; and in all cases where the statutes provide for payment by the treasurer without an order of the county clerk, it shall hereafter be the duty of the county clerk to draw and deliver to the treasurer an order therefor before or at the time when such payment is required to be made by the treasurer. The provisions of this subsection shall apply to all special and general provisions of the statutes relative to the disbursement of money from the county treasury.

**(3) SPECIAL COUNTIES; COUNTERSIGNED BY AUDITOR.** In all counties having a population of 300,000 or more all orders and warrants drawn upon or against county funds shall be countersigned by the county auditor; and the treasurer of such county shall make no payments of county funds for any purpose unless the order, warrant, certificate, direction or authority given him for such payment is countersigned by such county auditor. This provision requiring the countersigning by said auditor shall apply to all laws and statutes, special and general, relative to the payment of county funds by the county treasurer except certificates or orders issued for the payment of juror, witness, interpreter, attorney, guardian ad litem and transcript fees.

**(4) EXAMINATION OF.** The county board at their annual session, or oftener if they deem necessary, shall carefully examine the county orders returned paid by the county treasurer by comparing each order with the record of orders in the county clerk's office, and cause to be entered in said record opposite to the entry of each order issued the date when the same was canceled. They shall also make a complete list of the orders so canceled, specifying the number, date, amount, and person to whom the same is made payable, except in counties having a population of more than five hundred thousand, the

name of the person to whom the same is made payable may be omitted, which statement shall be entered at length on the journal of the board; and immediately after the above requirements are complied with the orders so canceled shall be destroyed in the presence of the board.

**(5) UNCALLED FOR ORDERS; CANCELLATION; REISSUE.** The county clerk shall prepare and present to the county board, at each annual session thereof, a descriptive list giving the amount, date and payee of all county orders which have remained in his office for two years uncalled for by the payee. The board shall cause such orders to be compared with such list, and when found or made correct such list shall be entered at length on the journal of the board and filed in the office of such clerk; and all such orders shall be canceled and destroyed. The person in whose favor such order was drawn, excepting those issued under s. 59.77 (4), may, upon application to the chairman of the board and county clerk, made within six years from the date of such order and not afterwards, have a new order issued to him for the amount of the original, without interest.

History: 1979 c. 110.

**59.83 Publication of financial report.** The several county boards shall cause to be made out and published in the county, as a class 1 notice, under ch. 985, immediately after their annual meeting, a report of the receipts and expenditures of the year next preceding and the accounts allowed. The county board may within its discretion waive the publication of names of needy soldiers, sailors, marines and United States war veterans and the amount of relief provided under s. 45.14 and shall publish in lieu thereof the total disbursements thereunder.

**59.84 Budgetary procedure in populous counties.** **(1) APPLICATION.** The provisions of this section shall apply to all counties having a population of 500,000 or more.

**(2) DEPARTMENT DEFINED.** In this section the word "department" shall be construed to include all county departments, boards, commissions, institutions, offices, and other agencies of the county government for which funds may be legally appropriated.

**(3) FISCAL YEAR.** The fiscal year in every such county shall be the calendar year.

**(4) SUBMISSION OF ANNUAL BUDGET ESTIMATES.** In every such county each department shall annually, at such time as the county auditor directs, but not later than July 15, file with the county auditor in such form and content as the county auditor requires: (a) estimates for the ensuing fiscal year covering the revenues and

expenditures of the department; (b) estimates of any capital improvements pending or proposed to be undertaken within the ensuing fiscal year, and within the 4 fiscal years thereafter; and (c) such other information as the county auditor requests.

**(5) COMPILATION OF BUDGET REQUESTS.** The county auditor shall transmit the annual budget estimates of each department to the county executive and the county board not later than August 15 and shall also submit: (a) a statement of principal and interest becoming due on bonds outstanding and on other financial obligations; (b) his estimate of all other expenditures including proposed expenditures on capital improvements not financed by bonds; (c) his estimate of anticipated issues of new bond obligations during the ensuing fiscal year together with a statement of the funds required for maturities and interest payments on such issues; (d) his estimate of funds required as an appropriation for contingencies; and (e) his estimate of revenue from all other sources. He shall also submit a complete summary of all of the budget estimates and a statement of the property tax levy required if funds were appropriated on the basis of such estimates. In determining the property tax levy required, he shall deduct from the total estimated expenditures, the estimated amount of revenue from other than property tax levy sources and shall also deduct therefrom the amount of any surplus at the close of the fiscal year next preceding which has not been legally appropriated during the current year. The term "surplus" means that portion of any given fund or funds which remain, determined by deducting the sum of the following items as of the close of the fiscal year: (a) sinking funds created pursuant to law; (b) highway funds; (c) insurance fund created pursuant to s. 59.07 (2); (d) agency and trust funds including taxes collected in advance; (e) appropriations that are encumbered or are being carried over pursuant to sub. (11); and (f) current liabilities; from the sum of the following items: (g) money in the county treasury; (h) investments made by the county pursuant to ss. 59.75 (1) and 66.04 (2); (i) revenue accruals ordinarily payable into the county treasury prior to January 31 of the ensuing year and due from the United States treasury, state of Wisconsin, from municipalities and from county departments; and (j) inventories of commodities in stores. The surplus as determined upon the annual closing of the books of account may, prior to the adoption of the tax levy, by resolution adopted by a vote of two-thirds of the members-elect of the county board, be appropriated in whole or part to provide a sinking fund for the redemption or repurchase of bonded obligations or to provide

funds for emergency needs pursuant to sub. (9), but for no other purposes.

**(6) REVIEW OF BUDGET REQUESTS.** The county executive shall review the estimates of expenditures and revenues and shall hold public hearings thereon at which the head or a representative of every county department shall appear and give information with regard to the appropriations requested, including work programs, other justification of expenditures, and such other data as the county executive requests. The county executive shall make such changes in the proposed budget as in the executive's discretion may be deemed desirable or proper, and shall, on or before October 1, submit to the county board the budget, as amended, after such hearings. Such amended proposed budget shall be the executive's budget and shall include: (a) a simple, clear, general summary of the detailed contents of the budget; (b) a comparative statement by organization unit and principal object of expenditure showing the actual expenditures of the preceding fiscal year, the appropriations and estimated expenditures for the fiscal year currently ending, and the recommended appropriations for the fiscal year next succeeding; and (c) a comparative statement of the actual revenues from all sources including property taxes during the preceding fiscal year, the anticipated revenues and the estimated revenues for the fiscal year currently ending, and the anticipated revenues for the fiscal year next succeeding including any surplus from the preceding fiscal year not otherwise appropriated pursuant to sub. (9). The anticipated revenues for the fiscal year next succeeding shall be equal in amount to the recommended appropriations. The executive budget shall be accompanied by a message prepared by the county executive which shall outline the important features of the budget plan and indicate any major changes in policy or in recommended appropriations or revenues as compared with the fiscal year currently ending, and shall set forth the reasons for such changes.

**(7) PUBLICATION OF BUDGET AND PUBLIC HEARING.** The county board shall refer the executive budget to the finance committee and such committee shall publish as a class 1 notice, under ch. 985, a summary of the executive budget and comparative figures together with a statement of the county's bonded indebtedness, in the 2 daily newspapers having the largest circulation in the county, and shall make available to the general public reprinted copies of the summary as published. The publication shall also state the date, hour, and place of the public hearing to be held by the county board on such executive budget. The county board shall, not less than 14 days after publication of the summary of the executive budget, but not later than

the first Monday in November of each year and prior to the adoption of the property tax levy, hold a public hearing on such executive budget, at which time citizens may appear and express their opinions. After such public hearing, and on or before the annual meeting, the finance committee shall submit to the county board its recommendations for amendments to the executive budget, if any, and the county board shall adopt the budget with such changes as it deems proper and advisable. When so adopted, the sums provided shall, subject to the provisions of sub. (8), constitute legal appropriations and anticipated revenues for the ensuing year.

**(8) TRANSFERS OF APPROPRIATIONS.** At the request of the head of any department, and after receiving the recommendation of the county executive, the finance committee may at any time during the fiscal year transfer any unencumbered appropriation balance or portion thereof between principal objects of expenditures within a department; but no transfers shall be made of appropriations originating from bond funds unless the purpose for which the bonds were issued has been fulfilled or abandoned. If the county executive fails to make a recommendation within 10 days after the submission of a request for transfer, the finance committee may act upon such request without his recommendation. Whenever more than one department is under the jurisdiction of the same board or commission or under the same general management, such group of departments may be considered as though they were a single unit with respect to transfers of appropriations within the group. Upon the recommendation of the finance committee and within the last 3 months of the fiscal year, the county board may, by resolution adopted by a majority of the members present and voting at any meeting, transfer any unencumbered appropriation balance or portion thereof from one department or account to another, except appropriations which are irrepealable by law, and except as otherwise provided by sub. (9).

**(9) APPROPRIATIONS, SUPPLEMENTAL AND EMERGENCY.** At the request of the head of any department and after review and recommendation by the finance committee, the county board may, by resolution adopted by a vote of two-thirds of the members-elect of the county board, transfer from the contingency appropriation into any other appropriation or create a new appropriation for any legal county purpose whenever any unforeseen condition requiring an appropriation of funds occurs during the budget year. If during any fiscal year the county auditor certifies that there are available for appropriation (a) revenues received from sources not anticipated in the budget in that

year, (b) revenues received from anticipated sources but in excess of the budget estimates thereof, or (c) unappropriated surplus from the fiscal year next preceding, the county board may make supplemental appropriations for the year up to the amount of the additional revenue and surplus so certified to meet a public emergency affecting life, health, property or the public welfare. Such appropriation may be made only by resolution adopted by a vote of two-thirds of the members-elect of the county board. To the extent that there are no available unappropriated funds or realized revenues in excess of anticipated revenues to meet such an emergency, the county board may, by resolution adopted by three-fourths of the members-elect, authorize the issuance of tax anticipation notes pursuant to s. 67.12. Notice of intent to make supplemental appropriations from revenues or surplus or to issue tax anticipation notes shall be published as a class 1 notice, under ch. 985, in the 2 daily newspapers having the largest circulation in the county, not less than 6 days prior to the hearings before the finance committee of the county board in regard to such matters.

**(10) ORDINANCE INCREASING SALARIES; NEW POSITIONS; WHEN EFFECTIVE.** No ordinance or resolution authorizing the creation of new or additional positions or increasing salaries shall become effective in any fiscal year until an appropriation of funds for such purpose is made or the ordinance or resolution contains a provision for the transfer of funds if required. All such ordinances or resolutions which do not require an appropriation or transfer of funds, shall state therein the specific account or accounts in which funds are available for such purposes.

**(11) LAPSE OF APPROPRIATIONS.** Every appropriation excepting an appropriation for a capital expenditure, or a major repair, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure or a major repair shall continue in force until the purpose for which it was made has been accomplished or abandoned. The purpose of such appropriation for any capital expenditure or a major repair shall be deemed abandoned if 3 years pass without any expenditure from, or encumbrance of, the appropriation concerned.

**(12) PAYMENTS AND OBLIGATIONS PROHIBITED; CERTIFICATIONS; PENALTIES.** No payment shall be authorized or made and no obligation incurred against the county except in accordance with appropriations duly made. No payment shall be made or obligation incurred against any appropriation unless the county auditor first certifies that there is a sufficient

unencumbered balance in the appropriation and that funds therefrom are available or will be available to make the payment or to meet the obligation concerned when it becomes due and payable. Every obligation incurred and every authorization of payment in violation of this section shall be void. Every payment made in violation of this section shall be illegal, and all county officers who knowingly authorize or make such payment or any part thereof shall be jointly and severally liable to the county for the full amount so paid. If any county officer or employe knowingly authorizes or makes any payment or incurs any obligation in violation of this section or takes part therein, that action shall be cause for his removal. Nothing contained in this section or other sections of the statutes shall be construed to prevent the making of contracts for capital improvements being financed wholly or partly by the issuance of bonds duly authorized to be sold; nor shall it prevent the making when not prohibited by law of any contract or lease providing for the payment of funds at a time beyond the end of the fiscal year in which the contract or lease is made, but any contract, lease or other obligation requiring the payment of funds from the appropriations of a later fiscal year or of more than one fiscal year shall be made or approved only by resolution adopted by the county board.

**Cross Reference:** See 65.90 for budget procedure in counties other than Milwaukee

**59.85 Aid to immigration societies. (1)** The county board of any county may appropriate not to exceed one thousand dollars in any one year for the purpose of assisting any county association of the citizens of such county, or any association composed of the citizens of two or more counties of which the citizens of such county are members, organized solely for the purpose of inducing immigration to the state.

**(2)** The disbursement of any appropriation made under this section shall be under the supervision of the chairman of said board, the county clerk and county treasurer, and in all cases after such an appropriation has been made, there shall be filed with the said county clerk a sworn statement by the treasurer of the immigration society for whose benefit the appropriation was made, showing that the amount of said appropriation has been used by said association for the purpose of inducing immigration to the county making said appropriation and to adjoining counties, and itemized bills for the expenditure of a sum equal to said appropriation duly verified shall accompany such statement of said treasurer. Upon the approval of such statement and such itemized bills, by the county officers above named, said moneys so

appropriated shall be paid by the proper officers of the county making the same into the treasury of said immigration association.

**59.861 Mosquito control districts. (1)**

Any county or 2 or more contiguous counties may establish a district to control mosquitoes, upon a majority vote of each county board.

(2) (a) If a county establishes a district, the county board shall elect 3 county supervisors to a commission. If 2 or more contiguous counties establish a district, each county board in the district shall elect 2 county supervisors to a commission. The elected county supervisors shall serve as members of the commission until the expiration of their terms as county supervisors, as provided in s. 59.03 (1) (b), (2) (b), (3) (d) or (5). Each county board in the district shall elect supervisors as replacements when vacancies occur in the commission. The commission shall operate the mosquito control district.

(b) The commission shall elect a chairperson, vice chairperson and a secretary at its first meeting each year as provided under par. (c). The chairperson, or vice chairperson, in the chairperson's absence, shall preside at meetings and shall sign contracts and other written instruments of the commission. The secretary shall keep a record of the minutes of each meeting that is available for public inspection at all reasonable times, and shall mail notices to all members of the time and place of meetings.

(c) The commission shall meet on the first Thursday after the first Monday in January to select officers of the commission and to conduct other organizational business. The commission shall also meet if the chairperson calls a meeting, or within 48 hours if a majority of the members of the commission request a meeting in writing, specifying the time and place for the meeting. The commission shall give adequate public notice of the time, place and purpose of each meeting. All business of the commission shall be open to the public.

(d) The county board of each county in the district shall reimburse commissioners representing that county in the manner provided in s. 59.06 for county board committee members.

History: 1979 c. 122.

**59.863 Commission; powers and duties.**

(1) The commission may:

(a) Adopt bylaws to regulate its own proceedings.

(b) Employ the persons and contract for services to carry out the mosquito control program. The commission may not employ any person related to a commissioner.

(c) Reimburse employes for expenses incurred or paid in the performance of their duties, and provide a reasonable daily reimbursement.

(d) Purchase materials, supplies and equipment to carry out the mosquito control program.

(e) Take measures to control mosquitoes in accordance with expert and technical plans.

(f) Accept gifts of property to control mosquitoes.

(g) Dispose of property of the commission or mosquito control district, if no longer needed to control mosquitoes, by selling the property on competitive bids after 2 weeks' published notice.

(h) Obtain public liability and worker's compensation insurance.

(i) Enter into agreements with other political subdivisions of the state outside the mosquito control district to conduct mosquito control activities within these subdivisions, to promote mosquito control in the district.

(im) Enter into agreements with contiguous states or political subdivisions in contiguous states, as provided in s. 66.30 (5), to conduct mosquito control activities within those states or subdivisions, to promote mosquito control in the mosquito control district.

(j) Collect from all counties in the district money for operation of the district.

(k) Require employes of the commission who handle commission funds to furnish surety bonds, in amounts the commission may determine.

(L) Perform other acts reasonable and necessary to carry out the functions of the commission.

(2) Members or employes of the commission may request admission onto any property within the district at reasonable times to determine if mosquito breeding is present. If the owner or occupant refuses admission, the commission member or employe shall seek a warrant to inspect the property as a potential mosquito breeding ground. Commission members or employes may enter upon property to clean up stagnant pools of water or shores of lakes or streams, and may spray mosquito breeding areas with insecticides subject to the approval of the district director and the department of natural resources. The commission shall notify the property owner of any pending action under this subsection and shall provide the property owner with a hearing prior to acting under this subsection if the owner objects to the commission's actions.

(3) The commission shall:

(a) Submit to the board of each county participating in the mosquito control district, at the end of each calendar year, a complete audit of the financial transactions concluded and a

progress report indicating the actions taken to control mosquitoes.

(b) Publish a notice for general circulation in each of the counties in the district for bids at least 10 days prior to purchasing materials or services costing more than \$2,500. The notice shall state the nature of the work or purchase, the terms and conditions upon which the contract will be awarded, and the time and place where bids will be received, opened and read publicly. The commission may reject all bids after the reading or shall award the contract to the lowest responsible bidder. The commission may award the contract to any unit of government without the intervention of bidding, under s. 66.299. The district business administrator shall execute all contracts in writing, and may require the contracting party to provide a bond to ensure performance of the contract. The commission may direct the business administrator to purchase materials or services costing \$5,000 or less on the open market at the lowest price available, without securing competitive bids, if the commission declares that an emergency exists by an affirmative vote of five-sixths of the commission. In this paragraph, an "emergency" is an unforeseen circumstance that jeopardizes life or property.

(c) Employ and fix the duties and compensation of a full-time or part-time entomologist to act as director of the mosquito control program, who shall develop and supervise the execution of the program.

(d) Employ and fix the duties and compensation of a full-time or part-time business administrator, who shall administer the business affairs of the commission and shall keep an account of all receipts and disbursements by date, source and amount.

History: 1979 c. 122.

**59.864 Adverse interest of commissioners.** No commissioner may have any personal or financial interest in any contract made by the commission. Any violation of this section resulting in a conviction shall void the contract, and shall disqualify the commissioner convicted of the violation from membership on the commission.

History: 1979 c. 122.

**59.865 Financing.** On or before October 1 of each year, the commission shall require each county within the mosquito control district to contribute an amount per resident of the county to carry out the purposes of ss. 59.861 to 59.866. The commission shall determine the amount to charge per resident. The commission shall certify in writing to the county clerk of each county participating in the mosquito control district,

the total amount of the county's contribution to the mosquito control district.

History: 1979 c. 122.

**59.866 Dissolution of the district. (1) (a)** Any county may terminate its participation in the district upon a majority vote of the county board and 12 months' notice to the chairperson of the commission. If a county terminates its participation in the district, a board of appraisers as established in par. (b) shall appraise the property of the commission.

(b) The board of appraisers shall consist of 3 members, one appointed by the terminating county, one by the commission and one by the other 2 members of the appraisal board. If the 2 appraisers cannot agree on the appointment of the 3rd appraiser within 30 days, the commission may appoint the 3rd appraiser. The commission shall pay to the treasurer of the terminating county an amount equal to that county's share in the net assets of the commission, proportionate to the county's financial contribution to the mosquito control district. The terminating county shall remain liable for its allocated share of the contractual obligations of the mosquito control district.

(2) If the district dissolves, the commission shall sell all of its property. The proceeds of the sale remaining after payment of all debts, obligations and liabilities of the district, plus any balance in the fund, shall be divided and paid to the county treasurers of the member counties in proportion to each county's financial contribution to the district. Member counties shall remain liable for unpaid debts after the dissolution of the district.

History: 1979 c. 122.

**59.87 University extension work. (1)** CREATION. Any county board, in accordance with this section, may establish and maintain an educational program in co-operation with the university of Wisconsin, referred to in this section as "University Extension Program".

(2) COMMITTEE ON AGRICULTURE AND EXTENSION EDUCATION. If the county board of supervisors determines to establish a university extension program, it shall create a committee on agriculture and extension education. The county board may select as a member of the committee any public school administrator resident in the county. The members of the committee shall receive such compensation and expenses as the board determines under s. 59.15 (2) (c) and (3). The committee shall meet at such intervals as is deemed necessary to properly carry out its functions and responsibilities.

(3) STAFF. (a) The committee on agriculture and extension education shall appoint pro-

professionally qualified persons to the university extension program staff in co-operation with university extension and vacancies and additions to the staff shall be filled in the same manner.

(b) The committee on agriculture and extension education may enter into joint employment agreements with the university extension or with other counties and the university extension if the county funds committed in such agreements have been appropriated by the board. Persons so employed under co-operative agreements and approved by the board of regents shall be considered employees of both the county and the university of Wisconsin.

(4) **FINANCE.** For the partial maintenance of the work of the university extension program, including co-operative extension programs as provided for in an act of congress approved May 8, 1914 (38 Stat. 372) and all acts supplementary thereto, the county board may appropriate moneys as requested by the committee on agriculture and extension education to provide the county's share in such work. The money appropriated by the county board shall be disbursed by the treasurer upon orders of the county clerk pursuant to the actions of the committee on agriculture and extension education and as adopted by the county board.

(5) **STATE AIDS.** To supplement the funds provided by the county for the work of the university extension program, each county shall be entitled to a minimum state aid of \$1,500 per year if the county board has made the required appropriation to maintain such a program, and such additional funds as are required to provide salary increases equal to those granted to state employes by the legislature.

(6) **FUNCTIONS.** Such university extension program is authorized, under the direction and supervision of the county committee on agriculture and extension education, co-operating with university extension of the university of Wisconsin, and within the limits of funds provided by the board and co-operating state and federal agencies, to make available the necessary facilities and conduct programs in:

- (a) Professional and liberal education.
- (b) Human resource development.
- (c) Economic and environmental development.

(d) Extension work provided for in an act of congress approved May 8, 1914 (38 Stat. 372) and all acts supplementary thereto.

(e) Any other extension work authorized by local, state or federal legislation.

(em) Such program may consist of, but not be limited to, providing agents to conduct programs on energy conservation and renewable energy resource systems, conduct evaluations

and provide planning, analysis and other technical support to community agencies and organizations, small businesses, individuals interested in energy conservation in local communities and primary and secondary school teachers.

(f) Take any action that will facilitate the accomplishment of any of the functions listed above, including without limitation because of enumeration, the following:

1. Training of group leaders and the directing of group activities.
2. Individual or group instruction or consultation.
3. Demonstration projects, exhibits and other instructional means.
4. Group workshops, institutes, and conferences.
5. Creation of citizens' advisory committees.
6. Dissemination of information by any appropriate means including press, radio and television.
7. Charging of fees for certain desired educational services when sufficient public funds are not available to cover costs.
8. Co-operation with other local, state and federal agencies.

(7) **DEPARTMENT OF GOVERNMENT.** For the purposes of s. 59.15 (2) (d) the university extension program shall be a department of county government and the committee on agriculture and extension education shall be the committee which is hereby delegated the authority to direct and supervise such department. In co-operation with university extension of the university of Wisconsin, the committee on agriculture and extension education shall have the responsibility for the formulation and execution of the university extension program. The university extension shall annually report to the board its activities and accomplishments.

(8) **CO-OPERATION.** The personnel of the university extension program shall, whenever feasible, co-operate with other educational programs of importance to the citizens of the county. Such co-operative agreements may be made under s. 66.30.

History: 1979 c. 350.

**59.871 Worms, insects, weeds, animal diseases, appropriation.** (1) The board may appropriate money for the control of insect and worm pests, weeds, or plant or animal diseases within the county, and select from its members a committee which, upon advice from the county agent that an emergency exists because of the destruction which is being or may be wrought to farm lands, livestock or crops in the county by any such pests, may take steps necessary to suppress and control such pests. The clerk shall within 10 days notify the department of agricul-

ture, trade and consumer protection of such appropriation and of the members of such committee. The state entomologist and said department shall cooperate with such committee in the execution of measures necessary for the suppression and control of such pests.

(2) When such emergency exists the committee may draw on the contingent fund, if available, not to exceed \$5,000 which shall be disbursed upon certification of the committee for the purposes specified in sub. (1) as they relate to worm or insect pests; the treasurer shall pay the amounts so certified. No disbursement shall be made by the committee unless the owner of the premises affected has requested the committee to take steps to suppress or control the pests or when steps have been undertaken by another authority.

History: 1977 c. 29 s. 1650m (4).

**59.872 Funds appropriated to soil and water conservation district.** The board may appropriate funds to a soil and water conservation district which includes lands within the county, to be used by the supervisors of the district in the administration of district affairs and in controlling erosion within the district.

**59.873 Lime to farmers.** The board may manufacture agricultural lime and sell and distribute it at cost to farmers and acquire lands for such purposes.

**59.874 Land clearing and weed control.** The board may purchase or accept by gift or grant tractors, bulldozers and other equipment for clearing and draining land and controlling weeds on same, and for such purposes to operate or lease the same for work on private lands; charge fees for such service and rental of such equipment on a cost basis.

**59.875 Testing milk and soil.** The board may appropriate money and provide office and laboratory space for testing milk and soil and provide residents of the county with reports of such tests.

**59.876 Immigration board. (1)** The board may create a board of immigration of from 3 to 5 members, one of whom shall be the county surveyor. Such board shall meet, and its members shall receive such compensation and expenses and shall serve for such terms as the county board determines.

(2) The immigration board shall aid in promoting settlement of vacant agricultural lands in the county, and protect prospective settlers from unfair practices.

(3) The county board may in any year appropriate for the carrying out of the work of such board a sum not to exceed \$5,000.

**59.877 Licenses for cats.** A county having a population of 500,000 or more may enact an ordinance requiring licenses for cats. The ordinance may require a person who owns or keeps a cat within the county's boundaries to pay a license fee, obtain a license tag and otherwise control the cat. All proceeds from cat licenses shall be used for licensing, regulating and impounding of cats.

History: 1977 c. 38.

**59.89 Disposition of unclaimed funds by court clerks. (1)** On or before January 10 of every odd-numbered year the clerk of any circuit court in this state shall file with the county treasurer of his or her county a written report under oath of all moneys, securities or funds in his or her hands or under his or her possession or control where, for a period of 4 years or more, no order was made, or no step or proceeding had or taken in the case, action, or proceeding in, by or through which the moneys, securities or funds may have been deposited or left with the clerk or his or her predecessors in office, and where no valid claim was made upon or for any such moneys, securities or funds for a period of 4 years or more, and where the owner or ownership of the moneys, securities or funds is unknown, or undetermined, and the clerk or his or her successor in office shall hold the moneys, securities or funds, together with all interest or profits, until one year after the making of the report unless sooner demanded by and turned over to the legal owners thereof.

(2) One year after the filing of the report the clerk of any circuit court holding or having in his or her possession any such moneys, securities or funds, shall turn the same over to the county treasurer, unless sooner demanded by and turned over to the legal owners thereof under order of the court in which case, action or proceeding was pending.

(3) On or before March 1 of the same year the county treasurer shall publish in the county, as a class 3 notice, under ch. 985, the fact that he or she has such unclaimed moneys, securities or funds in his or her possession for disposition. If no legal claim is made for such moneys, securities, or funds within 90 days after the last publication above provided for, then the county treasurer shall turn such moneys, securities, or funds, together with all interest and profits had thereon, into the general fund of the county treasury, and no action shall thereafter be maintained by any person, firm, or corporation

against the county or the county treasurer for the same or any part thereof.

History: 1975 c. 324; 1977 c. 449

**59.90 Unclaimed funds in public treasury.**

(1) On or before January 10 of every odd-numbered year, each county, town, city and village officer, and each clerk of every court of record, shall file with the county treasurer of his county a written report under oath giving the names and the last known addresses of all persons for whom any such officer or clerk holds money or security, and which has not been claimed for at least one year, and showing the amount of such money or the nature of such security in detail. A duplicate report shall also be mailed to the secretary of state. Upon receiving said reports the county treasurer shall cause to be published a class 3 notice, under ch. 985, on or before February 1 of the same year, which notice shall contain the names and last known addresses of the owners of such unclaimed money or security, and shall state that unless the owners call for and prove their ownership of such money or security, within 6 months from the time of the completed publication, the county treasurer will take possession or control of such money or security.

(2) If within ten years from the time any such money or security is delivered to the county treasurer the owner thereof shall prove to the satisfaction of the county treasurer his right to the possession of the same, it shall be paid or delivered to him. If no such proof is made, then at the end of such ten-year period such money or property shall become the property of the county. Nothing herein contained shall be construed to deprive the owner of any such property of his right to proceed by court action for the recovery of such moneys from the county treasurer.

(3) Any person violating the provisions of this section shall, upon conviction, be punished by a fine of not less than fifty dollars nor more than two hundred dollars, or by imprisonment in the county jail not less than 30 days nor more than 6 months.

**59.903 Disposition of unclaimed personal property other than money or securities held by: county institutions, coroner, medical examiner, sheriff.** All personal property other than money or securities of deceased persons who at the time of their death are patients at any county institution or whose body is taken in charge by the coroner or medical examiner, shall be preserved by the superintendent of such institution or the coroner or medical examiner for one year unless sooner claimed by a person

having the legal right thereto. Annually on July 1 such superintendent or coroner or medical examiner shall make a verified written report listing all such personal property which has remained in his custody for one year without being claimed and giving such facts as to ownership thereof as his records contain. He shall file such report with the sheriff of the county and deliver such property to the sheriff, who shall receipt therefor. Thereupon such superintendent or coroner or medical examiner shall be discharged from further liability for such property, title to which shall then vest in the county. Any property which is left at the county jail for a period of one year after the prisoner has been discharged, transferred or committed and any property, found or stolen, which comes into the hands of the sheriff and in any case remains unclaimed for a period of one year, shall be sold as prescribed in this section. The sheriff shall, on or before August 1 annually, post a notice in 3 public places in the county, briefly describing such property and stating that he will sell the same at public auction on a certain date and at a named place, which auction shall be held accordingly. Any of such property which is not disposed of at such auction shall be sold for the best price obtainable, and if the same cannot be disposed of by sale, shall be destroyed in the presence of the sheriff. The sheriff shall, on or before September 1 annually, remit the proceeds of such auction or general sale to the county treasurer and shall file a verified report of his action in connection therewith. Such proceeds shall become a part of the general fund of the county.

History: 1973 c. 272.

**59.91 Viaducts and bridges, populous counties; bonds.** (1) SPECIAL COUNTIES MAY CONSTRUCT. The county board of supervisors of any county within this state which has a population of 150,000 or more may erect, construct and maintain any viaduct or bridge over and across any gully, river or valley, or railroad track or tracks agreeable to the conditions and provisions of this section and subsisting laws applicable thereto, when in the opinion of the county board the erection of the viaduct or bridge is for the best interests of the county and inhabitants thereof, which opinion shall be rendered by resolution duly adopted by the county board of supervisors of the county, at any legal meeting thereof. The viaduct or bridge shall be constructed of such length, width and height as the county board of supervisors may by resolution determine.

(2) LOCATION; BONDS WHEN ISSUED. Whenever any such county board shall have determined upon the erection of any viaduct or bridge

as provided for in this section, it may at any regular meeting of said board, determine by resolution in the manner provided by law, and the rules and regulations of such county board, the tract or tracts of land over and upon which such viaduct shall be placed or constructed, and the determination of such county board and the selection by it of the tract over and upon which such viaduct shall be so placed, shall be final; but no bonds shall be issued under this section until said determination has been made and had by such county board of supervisors.

**(3) DUTY OF SURVEYOR; NEGOTIATIONS BY BOARD; DAMAGES.** Whenever the county board of supervisors of any such county shall determine to erect and construct a viaduct or bridge under and according to the provisions of this section, it is hereby made the duty of the county surveyor of such county, immediately upon such determination and the selection of such county board, of the location of such viaduct, or as soon thereafter as practicable, to cause a survey of the property so selected to be made, and to file said survey in the office of the county clerk of such county; and he shall also file therewith a description of the several parcels of land contained therein; and also a map or plat thereof, showing the location of the same, unless such survey, description and plat has already been prepared, and such county board of supervisors or such committee as such board may appoint, shall upon the filing of such plat and description of such land and the survey thereof, ascertain if the same or any part thereof can be acquired from the owners thereof, by dedication without compensation, and also enter into negotiations with the several owners of the land necessary to be acquired, for the purpose of the fee simple of, or right of way over, all the lands described in said survey, which cannot be acquired by gift for the purpose of constructing a viaduct thereon, and such lands as shall be included in said survey, which cannot be acquired by gift or purchase at an agreed price, or the right of way over such lands, shall thereupon be condemned by the said county board of supervisors, in the manner provided by law for laying out a county road for the purpose of constructing such viaduct thereon; provided, that the damages assessed therein shall be paid by said county. If by constructing said viaduct in the manner aforesaid, any damages be sustained by any person or persons, to his or their property, then and in such cases the damages so sustained shall be paid out of the treasury of the county.

**(4) DRAWBRIDGE; HEIGHT OVER TRACK.** When any such viaduct shall be built over a navigable river, a suitable drawbridge shall be provided therein, and whenever any such viaduct shall cross over and above any railroad

track, the same shall have its lowest member not less than 23 feet above the rail of said railway.

**(5) PROFILE; PLANS; CONTRACT.** Whenever the erection of a viaduct, under the provisions of this section, shall have been determined upon, the county board of supervisors of the county about to construct the same shall cause to be made a complete profile plan and detailed specifications for the work, and as soon thereafter as practicable, such county board of supervisors shall let the contract for the work according to law to the lowest bidder, and enter upon the construction of such viaduct, bridge and approaches in conformity thereto.

**(6) FRANCHISES AND RIGHTS NOT TO BE GRANTED.** No franchises or rights shall ever be granted for purposes of horse, steam, electric or other railway communication, and no exclusive privileges or immunities shall ever be granted for the lighting of streets, highways and the like over any viaduct constructed under the provisions of this section, by the county constructing the same, to any person, persons or corporation.

**(7) BONDS, WHEN ISSUED; SUBMISSION OF TO VOTE OF PEOPLE; WHEN.** Whenever the construction of a viaduct shall have been determined upon, agreeably to the conditions of this section, the county board of supervisors of the county about to construct such viaduct, is hereby authorized and empowered to issue bonds of such county for the purpose of raising money for the building of such viaducts, and for the procurement of title thereto, or a right of way over any and all lands necessary to or convenient for the construction and maintenance of such viaduct, and necessary or convenient approaches thereto, and the payment of all damages which may be assessed or allowed to the owners of property that shall be purchased or condemned for the uses and purposes in this section, provided, such bonds to bear interest at a rate not exceeding 5% per year, interest payable semiannually, and the principal payable at such time or times, within 20 years from the date of such bonds, as the county board of supervisors of such county may determine. Provided, however, that no bonds authorized by this section, shall be issued within 60 days after the vote of any county board authorizing such issue, and if, within such period of 60 days there shall be filed with the county clerk of such county a petition signed by not less than 10% in number of the voters who voted in said county at the last preceding general election asking for a submission of the question of issuing such bonds to a vote of the people, such bonds shall not be issued until authorized by a majority of the voters voting upon such question, in which case the question of such issue shall be submitted to the

people in the manner provided by section 943, statutes of 1919, and all provisions of said section 943, statutes of 1919, relating to the method of submission of the question of issuing bonds to a vote of the people, shall apply to the issue of bonds under this section.

**(8) BONDS, TENOR AND EFFECT OF.** All county bonds issued by any county under this section shall be signed by the chairman and countersigned by the clerk of the county board of supervisors of the county issuing the same, and shall be under the corporate seal of said county, and shall be in the sum of \$1,000, \$500 and \$100 each, the number of bonds of such denomination to be fixed by the county board of supervisors, with interest coupons thereunto attached, payable semiannually; all of such bonds issued in any one year, to be payable with the same rate of interest, and the interest payable semiannually at one time and place; such time and place to be determined by the county board of supervisors, and to appear upon the face of such bonds and coupons, and said bonds, when signed, countersigned and sealed, as aforesaid, shall be in the hands of a bona fide holder of the same for value, full and complete evidence, both at law and in equity, to establish the indebtedness of the county issuing the same, according to the tenor and effect of said bond.

**(9) DUTY OF COUNTY TREASURER; BOND AND SURETIES.** When the issue of any county bonds, under this section, shall have been determined upon, the county board of supervisors of the county about to issue the same, may at any legal meeting, direct by resolution, their chairman to sign, and the clerk of said board to countersign, all the bonds authorized to be issued under this section, or such part thereof as the said board may from time to time determine shall be issued; and it shall be the duty of the treasurer of any such county, under the supervision of the county board of supervisors of such county, to negotiate the bonds so issued; provided, that none of said bonds shall be sold at a rate less than par; and the said county treasurer of such county, shall keep and maintain all moneys received from the sale of the bonds issued, in a fund separate from all other moneys belonging to said county, and no part of said bond or of the moneys arising from the sale thereof, shall be expended for or applied to any purposes whatever, except to defray the expenses of obtaining the right of way and for the building of any viaduct, constructed under and according to this section, and for materials to be used therein and labor furnished thereon; and the said treasurer and his sureties shall be liable to such county for any misapplication of the same or any part thereof; and the said treasurer, before he shall receive such bonds or any money received from the sale thereof for any

purpose whatever, shall within 30 days after it has been determined to issue such bonds, execute to the county board of supervisors of such county, a bond with 3 or more sufficient sureties or a surety company in the penal sum of double the amount of bonds or moneys so to be received by him, conditioned that he will faithfully perform all orders and resolutions of said county board of supervisors which may be passed by virtue of the powers conferred upon such board by this section; that he will keep the bonds received by him safely, that he will keep the moneys received by him and arising from the sale of said bonds safely and separately from other moneys belonging to such county, that he will not pay out the same or any part thereof, except in the manner herein provided, which said bonds shall be approved by the county board of supervisors of said county, and filed in the office of the clerk of said county board of supervisors, and the treasurer of said county shall in a book in a form convenient for that purpose, keep all the coupons belonging to such bonds when the same shall be returned, paid and canceled; such book at all times to be subject to the inspection of any member of said board, citizen or citizens of such county.

**(10) INTEREST AND PRINCIPAL; HOW PAID.** It shall be the duty of any county board of supervisors which shall have determined upon the building of any viaduct under this section, at or before issuing any bonds in pursuance hereof, to provide for the payment of the interest and the ultimate payment of the principal, of any and all bonds which shall be issued under and by virtue of this section; and for that purpose such county board of supervisors is hereby authorized and required at or before the issue of any such bonds shall have been determined upon, to provide for the assessment, levy and collection of a direct annual tax upon all the taxable property of such county in which such viaduct shall be located, sufficient to pay the interest on such bonds so issued, and also to provide for the levy and assessment of a direct tax, sufficient to pay and discharge the principal of said bonds, as the same shall mature, and to collect the same in the manner as other taxes are levied and collected by law.

**(11) ORDERS; FORM OF.** All county orders drawn on the treasurer of any such county, which shall have undertaken the erection of any such viaduct as herein provided, which are to be paid out of the moneys received on the sale of such bonds, or any part thereof, shall contain the words following, to wit: "On Viaduct Contract;" and the treasurer shall pay no county order or orders drawn on him against such county, out of the money received by him on the sale of such bonds or any part thereof, unless such order

shall contain the words "On Viaduct Contract," and the chairman of such county board of supervisors is hereby prohibited from signing and the clerk of said board from countersigning, any county order or orders of such county which shall contain the words "On Viaduct Contract," unless the consideration for such order be for work done or for material furnished, or both, in the erection of such viaduct, or in payment for lands purchased or damages lawfully assessed to owner or owners of land which shall have been duly condemned for use for, or in the construction, maintenance or use of any such viaduct.

**(12) BONDS TO BE NUMBERED AND REGISTERED.** The clerk of said county board of supervisors shall number such bonds and cause the same to be registered in the office of the treasurer of such county wherein such viaduct shall be located, in a book to be provided for that purpose.

**(13) POWERS OF COUNTY BOARD.** All legislative and administrative powers necessary to carry the powers conferred by this section into full force and effect, are hereby conferred upon the county board of supervisors of any county within this state, which shall avail itself of this section, agreeably to the conditions thereof.

History: 1979 c. 89; 1979 c. 110 s. 60 (13).

**59.94 Registration of farms. (1)** The owner of any farm or country estate, or his agent duly authorized therefor in writing, may register the name of such farm or estate in the office of the register of deeds of the county wherein the farm or estate is situated. The owner or purchaser of said farm or any part thereof, may change or release said name from his respective interest in said farm by filing a certificate stating that the original registered name is released. A new name or names to said farm or any parts thereof may then be registered. Every register of deeds shall keep a registry book for such purpose, and upon request, shall make registrations therein as provided in this section. Registration shall consist in writing in the registry book the name of the owner of the farm or estate and such name for the farm or estate as the owner or agent may designate, if no other farm or estate in the county has been previously registered under the same name. The register of deeds shall charge and collect \$1 for making each registration and each certificate filed. The registry book herein provided for shall be a public record in the office of the register of deeds.

**(2)** Any register of deeds who fails or refuses to provide a registry book and make registrations therein, and file certificates, as provided in this section, or who charges or collects more than \$1 for making any such registration, or filing such certificate, or who knowingly regis-

ters a farm or estate under a name previously adopted and registered for some other farm or estate in such county, or any person who uses, by way of advertisement or otherwise, the name of any farm or estate registered as provided in this section, to designate or as the name of any farm or estate in such county other than the farm or estate for which such name was registered, unless such name was adopted for and used as the name of such other farm or estate prior to April 6, 1905, shall be fined not less than \$5 nor more than \$25 or imprisoned not less than 10 nor more than 30 days, or both.

History: 1971 c. 211.

**59.96 Metropolitan sewerage commission. (1) APPOINTMENT OF COMMISSIONERS.** In any county having a population of 500,000 or more where the common council of any city of the 1st class within such county has adopted a resolution declaring that it is necessary to provide sewage disposal works for such city and in which a sewerage commission has been appointed and qualified, and has adopted plans for, and commenced the construction of a sewage disposal plant for said city, the governor shall appoint 3 sewerage commissioners who shall constitute and be known as the "Metropolitan Sewerage Commission" of such county. One person shall be certified by the sewerage commission of such city of the 1st class and one person by the department of natural resources to the governor, who shall appoint as members of the metropolitan sewerage commission the 2 persons thus certified and shall name as the 3rd member of the commission a resident within the drainage area of said county outside of the city limits of such city of the 1st class. Not less than 6 weeks prior to the expiration of the term of any commissioner his successor shall be certified and appointed as provided above for a term of 6 years. A commissioner shall hold office until his successor has been appointed and qualified. Vacancies occurring during the term of any commissioner shall be filled in like manner, but for the unexpired term only.

**(2) OATH OF OFFICE; EXPENSES.** Each appointee before entering upon the duties of this office shall take and subscribe the oath of office prescribed by the constitution and file the same with the secretary of state, duly certified by the official administering such oath. Each commissioner shall be reimbursed his actual and necessary expenses in the performance of his duties and shall receive no salary.

**(a)** The removal from the drainage area of said third commissioner who is a resident of said county outside of said city of the first class shall operate as a resignation of his office and the

vacancy thus created shall be filled by the governor.

(b) The department of natural resources or the metropolitan sewerage commission may at any time certify to the governor further respective names whom the governor shall appoint as members of said commission. Each such appointee shall be appointed for the remainder of the term of the member he succeeds.

(3) **ORGANIZATION.** A majority of the commissioners shall constitute a quorum for the transaction of business. As soon as the commissioners first appointed under this section enter upon the duties of their office, they shall organize by electing one of their members chairman, who shall be removable at pleasure by the commissioners. The chairman shall preside over all meetings of the commission and shall perform such other duties as are imposed upon him by this section or may be assigned to him by the commission. The commission shall appoint a secretary, who may or may not be a member of the commission, who shall be removable at pleasure by the commission, and shall receive, if not a member of such commission, such compensation as the commission may determine.

(4) **MEETINGS; REPORTS.** The metropolitan sewerage commission shall hold meetings for the transaction of business. All sessions or meetings of said commission shall be public and all records shall be public records. The commission shall prepare annually a full and detailed report of its official transactions and expenses and shall mail such statement to the governor of the state, to the department of natural resources, the mayor of such city of the first class, the sewerage commission of such city of the first class, and to the governing boards of all cities, towns and villages in such county within the drainage area hereinafter provided for.

(5) **NAME; ENTITY; ADDING AREA.** (a) Upon the establishment of the boundary as herein provided, the district shall be a municipal body corporate. The name of such district shall be the metropolitan sewerage district of the county in which it is established. Such district shall act through the agency of the metropolitan sewerage commission herein provided for and of the sewerage commission of the city of the first class. Such district may sue or be sued, and in addition to the other powers granted such metropolitan sewerage district may in its judgment build treatment plants within such county for the treatment or disposal of sewage coming from within or without such district.

(b) The metropolitan sewerage commission may by resolution add to the area of such district and may include therein other areas within such county, the sewage from which does or may

drain into any lake or river or stream which flows into any lake which is or may be used as a source of drinking water, and the sewage from which area may be cared for by any treatment or disposal plant owned or operated by said district or any of its agencies. Before the adoption of any such resolution adding additional area to such district, the metropolitan sewerage commission shall first obtain the consent of the sewerage commission of the city of the first class and of the governing body of the municipality in which such area is located, and shall hold a public hearing thereon. Notice of such hearing, stating the time and place thereof, together with a copy of the proposed resolution, shall be sent by mail to the clerk of each city, town and village lying wholly or partially within the proposed area to be added not less than 30 days prior to such hearing and a copy of such notice, together with the proposed resolution, shall be published, as a class 2 notice, under ch. 985, within such district, the first insertion to be at least 30 days prior to the date of such hearing. Such proposed resolution shall contain the description by metes and bounds of each area added to such metropolitan sewerage district.

(c) Such area shall become a part of such district for all purposes upon the filing of a certified copy of such resolution describing such area in the office of the county clerk of such county. Like certified copies of such resolution shall be filed in the office of the register of deeds for such county and with the clerk of each city, town and village in such district and with the department of natural resources.

(6) **POWERS AND DUTIES.** (a) The metropolitan sewerage commission shall project, plan and construct in such county outside of the city limits of such city of the first class but within the metropolitan sewerage district, main sewers, pumping and temporary disposal works for the collection and transmission of house, industrial and other sanitary sewage to and into the intercepting sewerage system of such district, and may improve any watercourse within the district by deepening and widening or otherwise changing the same where in the judgment of the commission it may be necessary in order to carry off surface or drainage water, and such power may be exercised outside the district in any case where any such watercourse flows from within the district to a point outside the district and then returns to the district, and such power may be exercised outside the district in any case where any such watercourse flows from within the district to a point outside the district. Such commission is hereby authorized and empowered to enter into a contract with such municipality or with any other governmental body which owns or has control of any such lands

through which such stream flows for the payment of such part of the cost of such improvement in such municipality which is wholly or partly outside of the district as the municipalities and governmental bodies involved may agree upon. The commission may divert water from watercourses into drains, conduits or storm sewers, and may place storm, surface or ground waters therein and for such purpose is authorized to build drains, conduits or storm sewers, provided that no surplus or flood waters shall be diverted or bypassed into any stream or watercourse in another watershed.

(ab) 1. Before the metropolitan sewerage commission diverts water from any watercourse into an enclosed drain, conduit or storm sewer or similar structure, it shall apply to the department of natural resources for a permit for such diversion. Upon receipt of an application for a permit, the department shall fix a time, not more than 8 weeks thereafter, and a convenient place, for a public hearing thereon; it shall also give notice of such time and place to the metropolitan sewerage commission which shall cause the same to be published once each week for 3 successive weeks before such hearing in at least one newspaper designated by the department and published in the county.

2. In addition to such publication the applicant, not less than 20 days prior to such hearing, shall mail to every person interested in any lands that will be affected by the proposed diversion and whose post-office address can by due diligence be ascertained, notice of the time and place set for such hearing. This notice shall be accompanied by a general statement of the nature of the application and shall be forwarded to such persons by registered mail in a sealed and postpaid envelope properly addressed. Proof of such publication and notice shall be filed with the department.

3. At such hearing or any adjournment thereof, the department shall consider the application, and shall take evidence offered by the applicant and other persons in support thereof or in opposition thereto, may require the amendment of the application, and if it appears that the application is in the public interest, will not violate public rights and will not endanger life, health or property, the department shall so find and shall issue a permit to the applicant.

(b) The said metropolitan sewerage commission is authorized in its name to contract and to be contracted with, and to sue and to be sued.

(c) The metropolitan sewerage commission may require any town, city or village in such county, or any occupant of any premises outside of said city of the first class, located in such county, engaged in discharging sewage effluent from sewage plants, sewage refuse, factory

waste, into any river or canal within such county within the drainage area hereinafter provided for to so change or rebuild any such outlet, drain or sewer as to discharge said sewage, waste or trade waste into the sewers of such city, town or village or into said main sewers by it established and under such regulations as the commission may determine.

(d) The commission may employ and fix the compensation of all agents, assistants, clerks, employes and laborers as it may deem advisable for the due and proper execution of its duties, and in its discretion may employ the chief engineer or agent or employes of any such city of the first class, or of the sewerage commission thereof, as its engineers, agents or employes, provided, however, that the compensation fixed therefor shall not be paid to such person but to such city or such sewerage commission.

(e) The commission may enter upon the land in the cities, villages and towns in said county outside of said city of the first class for the purpose of making surveys or examinations in the performance of its duties.

(f) The commission may enter upon any state, county or municipal street, road or alley, or any public highway in said county outside of said city of the first class for the purpose of installing, maintaining and operating the sewage system provided for in this section, and it may construct in any such street, road or alley or public highway, a main sewer, intercepting sewer or any appurtenance thereof, without a permit or a payment of a charge. Whenever such work is to be done in a state, county or municipal highway, the public authority having control thereof shall be duly notified, and said highway shall be restored to as good condition as existed before the commencement of such work, and all costs incident thereto shall be borne by the commission.

(g) The commission shall have power to lay or construct, and to forever maintain, without compensation to the state, any part of said system of sewerage, or of its works, or appurtenances, over, upon or under any part of the bed of any river flowing through said cities, villages and towns, or of any land covered by any of the navigable waters of the state, the title to which is held by the state, and over, upon or under canals or through waterways and under right of ways of railroad, interurban and street railway companies, and if the same be deemed advisable by the commission, the proper officers of the state are authorized and directed upon the application of the commission, to execute, acknowledge and deliver to the commission, such deeds, or other instruments, as may be proper for the purpose of fully confirming this grant.

(h) All persons, firms or corporations lawfully having buildings, structures, works, conduits, mains, pipes, tracks or other physical obstructions in, over or under the public lands, avenues, streets, alleys or highways of said cities, villages and towns which block or impede the progress of such sewer, when in process of construction, establishment or repair shall upon reasonable notice by the commission, promptly so shift, adjust, accommodate or remove the same at the cost and expense of such individuals and corporations, as fully to meet the exigencies occasioning such notice.

(i) Whenever necessary in order to promote the best results from the construction, operation and maintenance of the systems provided for in this section, and to prevent damage to the same from misuse, the commission, acting on behalf of the district, may make, promulgate and enforce such reasonable rules and regulations for the supervision, protection, management and use of said system as it deems expedient, and such regulations shall prescribe the manner in which connections to main sewers and intercepting sewers shall be made, and may prohibit discharge into such sewers, of any liquid or solid waste deemed detrimental to the sewerage system herein provided for. Such rules and regulations shall be adopted and enforced as provided by s. 62.61 (2). Notwithstanding any other provision of law, such rules and regulations, or any special orders issued thereunder, may be enforced under s. 823.02 and the violation of any rule or regulation or any special order lawfully promulgated by said commission is hereby, in the discretion of the court, declared to be a public nuisance.

(j) The commission may acquire by gift, purchase, lease or other like methods of acquisition or by condemnation, any land or property situated in said county outside of said city of the first class, and all tenements, hereditaments and appurtenances belonging or in any way appertaining, or in any interest, franchise, easement, right or privilege therein, which may be required for the purpose of projecting, planning, constructing and maintaining said main sewers, or any part or parts thereof, or that may be needed for the workings of said sewers when established, or that may be needed for improving any watercourse within the district by deepening and widening or otherwise changing the same but any stream over private lands not acquired shall only be altered if the governing body of the village, town or city in which said watercourse is located has approved of such proposed action and when so often as resort shall be had to condemnation proceeding the procedure shall be that provided for by ch. 32, and specifically the provisions of s. 32.05, except that the powers

therein granted shall be exercised by and in the name of said commission in the place and stead of the county board. Notwithstanding any other provision of law to the contrary, all property, real or personal, acquired by the metropolitan sewerage commission or by the sewerage commission of the city of the first class shall be taken in the name of either of such commissions for the benefit of and belong to the metropolitan sewerage district. Whenever the sewerage commission of the city of the first class acquires property by condemnation proceedings, the procedure shall be that provided for by ch. 32, and specifically the provisions of s. 32.05, and all property so acquired shall be taken in the name of said commission for the benefit of and belong to the metropolitan sewerage district, and the sewerage commission of the city of the first class when exercising the power of eminent domain hereby delegated, shall determine the necessity for such taking. Such property, or any part or interest therein, when acquired, may be sold, leased or otherwise disposed of by such district by action of the metropolitan sewerage commission and the sewerage commission of the city of the first class acting jointly, whenever in the discretion of such commissions such property or any part or portion thereof or interest therein is not needed to carry out the requirements and powers of either of such commissions. This power shall also extend to personal property and to improvements on such real estate or any tenements, hereditaments or appurtenances belonging to or in any way appertaining, or any interest, franchise, easement, right or privilege therein.

(k) Whenever the plans and specifications for any main sewer have been completed and approved by the sewerage commission of such city of the 1st class and by the department of natural resources as provided in ch. 144 and the commission has determined as provided in this section to proceed with the work of the construction thereof, it shall advertise by a class 2 notice, under ch. 985, for bids for the construction of the main sewer and its appurtenances in part or as a whole, as it deems advisable. Contracts for such work shall be let to the lowest responsible bidder, or the commission may reject any and all bids and if in its discretion the prices quoted are unreasonable or the bidders irresponsible, or the bids informal, it may readvertise the work or any part of it. With the consent of all its members it may itself do any part of any such works, by any labor under such conditions in every respect as it may prescribe. All contracts shall be protected by such bonds, penalties and conditions as the commission shall require.

(l) The powers of the commission shall not extend to or apply to the territory of any city of

the first class which may be constructing, building and operating its sewerage system under a commission provided by law, except that the metropolitan sewerage commission may divert waters from watercourses into drains, conduits or storm sewers, may place storm, surface or ground waters therein, may enter into contracts for such purposes and may obtain funds therefor under sub. (7), subject to the provisions of pars. (a) and (ab).

(m) Said commission shall not construct any such main sewer nor alter or extend the same without having first submitted complete plans and specifications for the installation, alteration or extension, in writing, to the sewerage commission of such city of the first class and secured its approval thereof. All contracts entered into by said commission for the construction, alteration and extension of any such main sewers shall comply with s. 66.29 (9) (b).

(n) Said contract shall also contain a provision that the work of constructing said sewers shall be done under inspection to be furnished by the sewerage commission of such city of the first class, which inspection service shall be paid for at actual cost by the commission.

(o) Before any town, city or village or any private person or corporation shall be permitted to connect with or use any such main sewer provided for by this section, it shall obtain the approval of the sewerage commission of such city of the first class, which sewerage commission shall examine into it and hear all the parties in interest, and if it finds such sewer or system defective in construction, design, supervision or operation, it shall notify said metropolitan sewerage commission what alterations, new constructions or change in supervision or operation it shall require and deem necessary to correct existing and improper conditions and said metropolitan sewerage commission shall not permit such connection to be made or continued until such alterations, new constructions, change in supervision or operation shall have been made as provided in the determination of said sewerage commission of said city of the first class.

(p) Said metropolitan sewerage commission or said sewerage commission of said city of the first class, and their respective officers and agents are authorized to make examination of any and all sewers and sewerage systems within said county outside of the limits of said city of the first class for the purpose of determining if said systems are defective in operation, construction, design or supervision.

(q) When any such main sewer, pumping and temporary disposal works are completed they shall thereafter be operated, maintained and kept in repair and in sanitary condition by the sewerage commission of said city of the first

class, for the benefit of the metropolitan sewerage district.

(r) Nothing in this section shall be construed as restricting or interfering with any powers of the department of natural resources as provided by law, or with the powers granted to the sewerage commission of such city of the first class.

(s) Annually on or before September 1 the metropolitan sewerage commission and the sewerage commission of a city of the 1st class shall adopt a budget for the benefit of the metropolitan sewerage district of the county in which it is located, setting forth all of the improvements it intends to make during the ensuing year. Such budget shall be submitted to the county board of supervisors of such county. Such budget need only include the anticipated expenditures for the coming year and such budget shall be reduced by funds on hand and estimated revenues from any source. The district may during the budget year with the concurrence of two-thirds of its members, transfer amounts from one capital account to another when in the judgment of such commissioners such funds are not necessary to meet outstanding obligations. Nothing in this subsection shall be construed to impair any contractual obligation entered into either by the commission or by the district.

**(7) FINANCING IMPROVEMENTS.** (a) Except as provided under s. 59.964, if the metropolitan sewerage commission requires funds out of which to pay for the projection, planning and construction of said main sewers, pumping and temporary disposal works or for improving any watercourse within the district by deepening and widening or otherwise changing the same, or by diverting waters therefrom into drains, conduits or storm sewers, or for placing storm, surface or ground waters therein or for building drains, conduits or storm sewers, in the judgment of the commission pursuant to the exercise of the powers set forth in sub. (6) (a) or in other respects in connection therewith, it shall place the same in the budget submitted under sub. (6) (s). The board of supervisors shall provide for the amount so required by tax levy under sub. (10) or by issuing corporate bonds of the metropolitan sewerage district, or by a combination of a tax levy and corporate bonds, and make such amount available within the period of time designated by the metropolitan sewerage commission, which period shall not be less than 180 days from the date the budget is filed with the county board of supervisors. The bonds shall be authorized, sold and issued in the same manner as bonds of a county for its own behalf under ch. 67, shall be in an aggregate principal amount not in excess of the sum of the funds so required plus interest on any notes which may have been issued in anticipation thereof and shall be pay-

able at a time not longer than 20 years from the date of their issue. The bonds shall show on their face that the same are issued for the benefit of the metropolitan sewerage district. The county board shall levy a direct annual irrevocable tax upon all taxable property within the district for the payment of the bonds. It shall not be necessary to submit any such bond issue to the vote of the people. The tax levied under this paragraph may not be included within the provisions of any county, town, city or village tax limitation statute.

(b) Upon the sale of any such bonds, the county board of such county shall pay the proceeds thereof to the county treasurer of said county for the credit of the said commission and said county treasurer shall, from time to time, against said fund, pay warrants or checks when authorized by said commission and signed by the chairman and secretary thereof.

(c) Except as provided under s. 59.964, if the sewerage commission of a 1st class city requires funds out of which to pay for the projection, planning, construction and maintenance of a sewerage system for the collection, transmission and treatment or disposal of house, unpolluted industrial and processed waters and other sewage, or for the improvement of any watercourse within the district by deepening and widening or otherwise changing the same, or for constructing, maintaining and operating flushing stations and tunnels or for constructing, building and maintaining its sewage disposal or treatment plants in connection therewith, it shall place the same in the budget. Thereupon the board of supervisors shall provide for the amount so required by tax levy or by issuing corporate bonds of the metropolitan sewerage district, or by a combination of a tax levy and corporate bonds, and shall make such amount available within the period of time designated in the resolution of the sewerage commission, which period shall not be less than 180 days from the date the budget is filed with the county board of supervisors. The bonds shall conform to the requirements for bonds issued under par. (a).

(d) Upon the sale of any such bonds, the county board of such county shall pay the proceeds thereof to the city treasurer of said city of the first class to the credit of the said sewerage commission of said city and said city treasurer shall, from time to time, against said fund, pay warrants or checks when authorized by said commission and signed by the chairman and the secretary thereof.

(e) Bonds issued pursuant to pars. (a) and (c) of this subsection shall be combined into a single issue when the metropolitan sewerage commission and the sewerage commission of

such city of the first class shall so request in the resolution specified in said pars. (a) and (c).

(f) Any part or all of any tax levied by the county board against an entire city, village or town and certified to a city, village or town clerk, may be paid in whole or in part out of the general fund of the city, village or town in lieu of placing said tax upon the local tax roll. Any city, village or town which shall, prior to the time for the levy of taxes, have money in its general fund appropriated for that purpose, may by resolution determine that the taxes levied pursuant to pars. (a) and (c) and apportioned to it shall be paid to the county in whole or in part from such money in the general fund, which money, in the amount determined by such resolution, shall thereupon be segregated and used for no other purpose. The amount of such tax thereafter spread on the tax rolls of such city, village or town may be reduced by the amount so segregated from the general fund.

(m) 1. If the board authorizes the issuance of bonds under this section, the board may, prior to the issuance of the bonds and in anticipation of their sale, authorize by resolution an issue of bond anticipation notes on behalf of the district in an aggregate principal amount not in excess of the authorized principal amount of the bonds. The resolution shall be adopted by two-thirds of the members-elect of the board and shall state that all conditions precedent to the authorization of the bonds have been complied with and that the notes are issued for the purposes for which bonds are authorized to be issued. The resolution shall pledge to the payment of the principal of and interest on the notes the proceeds of the sale of the bonds in anticipation of the sale of which the notes were issued. The resolution may provide, in addition to, or instead of, such pledge of bond proceeds, for the levy of a direct, annual, irrevocable tax upon all of the taxable property within the district, such tax to be in an amount sufficient to pay the interest on the notes as it falls due and to pay and discharge the principal thereof at maturity.

2. No notes may be issued under this paragraph unless the county treasurer first certifies to the board that contracts with respect to improvements are to be let and that the proceeds of the notes are required for the payment of the contracts.

3. Notes issued under this paragraph shall be sold at public or private sale as determined by the resolution authorizing them, shall mature within 3 years of the date of issuance and shall be executed in the same manner as are bonds issued under this section. The notes shall recite on their face that they are issued on behalf of the district and are payable from proceeds of bonds issued under this section or from a tax upon all

the taxable property in the district. The notes shall not be deemed a general obligation of the county issuing them, except to the extent that a tax has been levied under subd. 1. No lien may be created or attached with respect to any property of the district as a consequence of the issuance of the notes.

4. Any funds derived from the issuance and sale of bonds under this section and issued subsequent to the execution and sale of notes issued under this paragraph shall constitute a trust fund, which shall be expended first for the payment of principal and interest of the notes, and then may be expended for such other purposes as are set forth in the resolution authorizing the bonds.

5. Notes issued under this paragraph shall constitute a legal form of investment for county funds as well as municipal funds under s. 66.04 (2).

**(8) APPORTIONMENT OF COST.** (a) Except as provided under s. 59.964, before February 1 in each year the sewerage commission of a city of the 1st class shall estimate and by resolution determine what sums in their judgment will be required to meet the expenses and disbursements of the sewerage commission of the city for the current fiscal year and shall include in such estimate and resolution as a part of the expense of the operation of such sewerage system all the expense of operation and of keeping in repair the sewerage system and disposal plant, including the main sewers, pumping and temporary disposal works and other plants, constructed by the metropolitan sewerage commission, and shall estimate and report the proportion thereof that will be due from each city, town or village in the drainage area in payment for the transmission and disposal of its sewage and for keeping in repair the intercepting sewers and disposal plant, including the main sewers, pumping and temporary disposal works and other plants, constructed by the metropolitan sewerage commission, and each city, town or village shall pay that proportion of the whole expense as the amount of sewage it contributes bears to the total amount of sewage disposed of by the city, in such disposal plants.

**(9) TAX LEVY; POWERS OF TOWNS.** (a) Except as provided under s. 59.964, sewerage commission of a 1st class city shall, on or before October 1 of each year, certify in writing to the clerks of the several cities, towns and villages having territory in the drainage area, the total amount necessary to pay the expenses for the transmission and disposal of the sewage for the year and the share thereof that each city, town and village must pay after the report has been made under sub. (8).

(am) Upon the receipt of the report under par. (a) by each clerk, the clerk shall submit the report to the next regular or special meeting of the governing board of the city, town or village and the board shall, by resolution, levy and assess taxes sufficient to pay the same, against all of the taxable property included within the drainage area in the town, city or village. Following the assessment and levy, the clerk of each city, town or village shall place the same upon the tax roll to be collected as other taxes are collected upon all of the taxable property within the drainage area, and moneys collected shall be paid by the treasurer of each city, town or village, to the treasurer of the 1st class city to the credit of said sewerage commission of a 1st class city. In lieu of the foregoing, any city, village or town may pay any charge certified under this subsection and recover the same in the rates charged users of the service under s. 66.076 (5).

(b) There is imposed upon all towns in counties in which under the provision of this section a metropolitan sewerage commission is created and appointed, all of the powers vested in villages under ch. 61 relating to the power of villages to finance, assess, build, construct and maintain sewerage systems, mains, laterals, drains and all appurtenances, and all of the duties by such provision imposed upon the village boards or villages, their several committees and village clerk, shall be performed in such towns by the town boards and town clerks thereof; provided, that the town board of any such town may lay sewers or water mains along either or both sides of any street or highway in the town, and in that event shall assess the cost thereof only against the property abutting and adjoining upon that side of the street or highway in which the sewer or water main may be laid; and all notices and specifications required thereby may be made and given by the towns in such work where no newspaper is published therein by posting 5 copies thereof in 5 public places in said town, and all duties by such provision imposed upon village clerk and village treasurer in extending upon the tax roll and collecting all assessments and taxes relating to such improvements, shall be performed in the same manner by town clerks and town treasurers of such towns.

(c) The metropolitan sewerage commission and the sewerage commission of a city of the 1st class acting jointly may on behalf of the metropolitan sewerage district contract with any city, town, village, sanitary district or metropolitan sewerage district organized under ss. 66.20 to 66.26 in such county wholly or partly outside the boundaries of the metropolitan sewerage district, or wholly or partly outside of such county but in the same general drainage area as the

metropolitan sewerage district for the transmission, treatment or disposal of sewage from any territory located in such city, town, village, sanitary district or metropolitan sewerage district so organized. Before any city, town, village, sanitary district or metropolitan sewerage district so organized shall be permitted to connect its sewers with or use any main sewers, such sewers shall be approved as provided by sub. (6) (o). The governing board of any such city, town, village, sanitary district or metropolitan sewerage district organized under ss. 66.20 to 66.26 by a vote of three-fourths of its members may enter into such contract and, except as provided under s. 59.964, may levy irrevocable taxes for the term covered by the contract for the cost of such service as determined by the contract upon the whole city, town, village, sanitary district or metropolitan sewerage district organized under ss. 66.20 to 66.26, or upon such part thereof as the governing board determines by such vote to be benefited thereby.

**(10) LEVY AND COLLECTION OF METROPOLITAN SEWERAGE TAXES.** The taxes levied pursuant to sub. (7) (a) and (c) shall be apportioned to the several towns, villages and cities situated within the metropolitan sewerage drainage area in the manner provided by s. 70.63, and may be spread upon the respective real estate and personal property tax rolls of said towns, villages and cities, combined with county taxes, and shall be treated for all purposes, including settlement with the treasurers of the towns, villages and cities in the same manner as county taxes but shall not be included within any limitation on county taxes.

**(12) INCONSISTENT LAWS REPEALED.** All laws or parts of laws inconsistent herewith are hereby repealed.

**History:** 1971 c. 164 ss. 35, 87; 1973 c. 12 s. 37; 1973 c. 69; Sup. Ct. Order, 67 W (2d) 774; 1975 c. 390; 1977 c. 379 s. 33; 1977 c. 382; 1979 c. 106.

**59.964 User charges for sewer improvement and operation. (1) DECLARATION OF POLICY.** In the interpretation and application of this section, it is declared to be the policy of this state to authorize a metropolitan sewerage commission and a sewerage commission acting jointly to institute a system of user charges and capital cost recovery charges which is designed to recover all or part of the operating costs and capital costs to the extent required by federal or state law in order to obtain federal or state funding from a user of the sewerage system in the proportion to which the user's waste water discharge contributes to such costs. It is intended that the system be instituted to satisfy but not exceed eligibility requirements of public grants under Title II of the water pollution

control act (33 U.S.C. 1251 et seq.) or under any other state or federal law and to satisfy but not exceed any other applicable state or federal law requiring such a system. Any inconsistency between this and any other provision of law shall be resolved in favor of the powers granted under this section so that the public policy stated in this subsection is effected, except that if any provision of this section conflicts with federal law, the federal law shall apply.

**(2) DEFINITIONS.** In this section:

(a) "Commission" means a metropolitan sewerage commission created under s. 59.96.

(b) "District" means a metropolitan sewerage district, described under s. 59.96 (5).

(bm) "Municipality" means any city, town or village located within the district and includes any city, town, village, sanitary district organized under ss. 60.302 to 60.305 or metropolitan sewerage district organized under ss. 66.20 to 66.26 if such city, town, village, sanitary district or metropolitan sewerage district has contracted with the commission and sewerage commission under s. 59.96 (9) (c).

(c) "Operating expenses" means the cost of operation and maintenance of a sewerage system and includes replacement costs.

(cm) "Replacement costs" means expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the service life of the system to maintain the capacity and performance for which such system was designed and constructed.

(d) "Sewerage" means all constructions for collection, transportation, pumping, treatment and final disposition of sewage.

(e) "Sewerage commission" means a sewerage commission of a city of the 1st class, created under ss. 62.60 to 62.67.

(f) "Sewerage service area" means the area of a district under s. 59.96 (5) and any area outside the district served by the district by contract under s. 59.96 (9) (c).

(g) "User" means any owner or occupant of any building which is located within the sewerage service area and which is furnished with sewerage service.

**(3) COLLECTION OF CHARGES AS USER FEES.** A sewerage commission and commission acting jointly may, as a complete or partial alternative to any other method of recovering capital costs and operating costs:

(a) Compute a uniform schedule of charges based on capital improvement costs to be recovered under this subsection from certain or all users to the extent required by federal or state law. In making such computation, the sewerage commission and commission acting jointly may consider any improvement, addition or rehabili-

tation of any physical structure, including sewer mains and treatment plants, to be an improvement, addition or rehabilitation to the entire sewerage system of the district.

(b) Adopt a uniform schedule of charges computed under par. (a). The sewerage commission and commission acting jointly may modify the schedule from time to time as they deem necessary.

(c) Submit the schedule adopted under par. (b) and every modification of the schedule to every municipality within the sewerage service area.

(d) Compute a uniform schedule of charges based on operating expenses to be recovered from users under this subsection.

(e) Adopt the uniform schedule of charges computed under par. (d). The sewerage commission and commission acting jointly may modify the schedule periodically.

(f) Submit the schedule adopted under par. (e) and every modification to every municipality within the sewerage service area as early in every calendar year as practicable.

(g) Bill periodically each municipality within the sewerage service area for the charges due under this subsection.

(h) Hold all payments received under par. (a) and the interest thereon in a segregated trust fund from which the sewerage commission and commission, acting jointly, shall pay refunds of public grants as required.

(i) Apply or credit the balance of the trust fund under par. (h) to defray the costs of future capital improvement projects.

(j) Indicate in clear and specific terms in their annual budget how the requirement under par. (i) has been implemented.

**(4) FACTORS IN CHARGE SCHEDULES.** In computing a charge schedule under sub. (3) (a), the sewerage commission and commission acting jointly shall require each user to pay the portion of the cost of construction of such treatment works which is allocable to the treatment of the wastes of such users to the extent attributable to the share of cost of construction required by federal or state law to be recovered. In computing a charge schedule under sub. (3) (d), the sewerage commission and commission acting jointly shall require each user to pay the proportion of total operating cost of the system incurred by the transmission and treatment of the user's wastewater. In determining such proportional costs, the sewerage commission and commission acting jointly shall consider such factors, without limitation because of enumeration, as strength, volume and delivery flow rate characteristics of each user's sewage.

**(5) COLLECTION OF FEES BY MUNICIPALITIES.** Every sanitary district organized under ss.

60.302 to 60.305 or metropolitan sewerage district organized under ss. 66.20 to 66.26 billed by a sewerage commission and commission acting jointly under sub. (3) shall in turn bill every city, town or village served by the sanitary district or metropolitan sewerage district. Every city, town and village billed by a sewerage commission and commission acting jointly under sub. (3) or by a sanitary district or metropolitan sewerage district under this subsection shall collect such charges from the individual sewer system users in the city, town or village and shall promptly remit the same to the district. The district may adopt rules for the establishment and administration of collection procedures and the settlement of such collections with the district as required by this section. No municipality may be required to pay any charge until the charge is collected by the municipality. Under such rules the district may provide for reimbursement of the municipality for the expense of collecting late payments of charges. The district or, if the district does not act, every municipality is empowered to levy a penalty for late payment by the user to the municipality. Any city, town or village may collect under s. 66.076 (7) any charge which is due under this section and which is delinquent. In the event that any municipality does not remit such charges to the district within 45 days of the billing date, the district may borrow moneys, repayable in not longer than 18 months, sufficient to offset such uncollected charges.

**(6) REVIEW BY PUBLIC SERVICE COMMISSION.** Upon complaint to the public service commission by any user that charges, rules and practices under this section are unreasonable or unjustly discriminatory, according to the standards and criteria which the commission and the sewerage commission are required to follow under state or federal law, including, without limitation because of enumeration, this section, ch. 147 and 33 U.S.C. 1251 et seq., or upon complaint of a holder of a mortgage bond or mortgage certificate or other evidence of debt, secured by a mortgage on the sewerage system or any part thereof or pledge of the income of sewerage service charges, that charges are inadequate, the public service commission shall investigate the complaint. If sufficient cause therefor appears, the commission shall set the matter for a public hearing upon 10 days' notice to the complainant and the sewerage commission and commission. After the hearing, if the public service commission determines that the charges, rules or practices complained of are unreasonable or unjustly discriminatory, it shall determine and by order fix reasonable charges, rules and practices and shall make such other order respecting such complaint as may be just

and reasonable. The proceedings under this subsection shall be governed, as far as applicable, by ss. 196.26 to 196.40. The sewerage commission and commission may submit the factual data, reports and analyses considered by them in establishing the charges, rules or practices subject to a complaint under this subsection. The public service commission shall give due weight to such data, reports and analyses. Judicial review of the determination of the public service commission may be had by any person aggrieved in the manner prescribed under ch. 227. If any user pays a charge and the public service commission or court, on appeal from the public service commission, finds such charge, after reviewing a complaint filed under this subsection, to be excessive, the commission which collected the charge shall refund to the user the excess plus the interest thereon computed at the rate then paid by the city of the 1st class for borrowing funds for a term of one year or less.

History: 1977 c. 382; 1979 c. 175.

**59.965 Expressways and mass transit facilities in populous counties. (1) DEFINITIONS.** As used in this section, unless the context indicates otherwise:

(a) "Board" means the county board of supervisors in any county having a population of 500,000 or more.

(b) "Expressway" means a divided arterial highway for through traffic with full or partial control of access and generally with grade separations at intersections. "Full control of access" means that the authority to control access is exercised to give preference to through traffic by providing access connections with selected public roads only and by prohibiting crossings at grade or direct private driveway connections. "Partial control of access" means that the authority to control access is exercised to give preference to through traffic to a degree that, in addition to access connections with selected public roads, there may be some crossings at grade and some private driveway connections. The board shall have power to determine whether full or partial control of access shall be exercised.

(c) "Expressway project" means an integral portion of the expressway that may be put to public use independently of other expressway projects.

(d) "Expressway project budget" means the plan of financial operation embodying an estimate of proposed expenditures for the expressway project and the proposed means of financing them.

(e) "Mass transit" includes, without limitation because of enumeration, exclusive or prefer-

ential bus lanes if those lanes are limited to abandoned railroad rights-of-way or existing expressways constructed before May 17, 1978, highway control devices, bus passenger loading areas and terminal facilities, including shelters, and fringe and corridor parking facilities to serve bus and other public mass transportation passengers, together with the acquisition, construction, reconstruction and maintenance of lands and facilities for the development, improvement and use of public mass transportation systems for the transportation of passengers.

(f) "Prior expressway project expenditures" means obligations incurred and expenditures financed from funds obtained from local tax levy sources, or from the proceeds of the sale of bonds, by a municipality in the county for the acquisition and clearing of the right-of-way and construction of expressway projects which are incomplete and have not been substantially put to public use at the time the county expressway commission was created and the transfer of the function to the commission was effectuated under s. 59.965, 1977 stats., together with any funds so financed in the state treasury under control of the department of transportation to the credit of an expressway project, any funds which the municipality, subsequent to the creation of the county expressway commission under s. 59.965, 1977 stats., and prior to May 17, 1980, transmitted to the department of transportation for credit to an expressway project authorized by the county expressway commission and any funds which the municipality may, subsequent to May 17, 1980, transmit to the department of transportation for credit to an expressway project authorized by the board.

**(2) POWERS AND DUTIES.** In any county having a population of 500,000 or more, the board is charged with the duty and vested with all powers necessary to plan, acquire the right-of-way for and construct an expressway system and mass transit facilities in the county and to administer each expressway and mass transit project until it is certified as completed; to coordinate planning of expressways and mass transit facilities by other public agencies to the extent required to ensure that an acceptable general plan of expressways and mass transit facilities to serve the entire county will be achieved; to cooperate with public and private agencies in mass transit and expressway applications; including without limitation by reason of enumeration, the power to contract and the following powers and duties:

(a) *Plans for expressways.* The board shall consider and tentatively adopt a general plan of expressways to serve the entire county. The plan shall be presented to the governing body of each municipality through which a part of the expressway system is routed for its consideration

and approval. The board may by formal action modify the general plan to meet objections raised by the governing body of any municipality through which a route of the expressway passes. If the approval of the governing body is not granted within 60 days from the date of submission, the board shall present the general plan to the department of transportation, which shall hold a public hearing on that part of the plan which is located in such municipality. After the hearing, the department of transportation shall make recommendations to the board with reference to the matters objected to by the municipal governing body. Thereafter the board shall incorporate the recommendations in its general plan. When the approval of the necessary local governing bodies has been obtained or the recommendation of the department of transportation has been obtained in lieu thereof, the general plan shall be finally adopted by the board. Thereafter, the board may amend the general plan as it deems proper.

(b) *Procedure upon adoption of plan.* The board shall adopt tentative expressway project budgets for the units of the comprehensive plan adopted under par. (a) and in order of construction as the board deems proper. Each budget shall give reasonably detailed estimates of expenditures required to complete the expressway project and shall also give an estimate of the state and federal aid which will become available for the project. The board shall determine the amount of the county's share of the cost of the project and the financing thereof, either from the authorization of county expressway bonds under s. 67.04 (1) (v), or by determining the amounts to be included in the budgets during the construction years, or by transfer from unappropriated surplus under s. 59.84 (5), or by any combination of the foregoing. When the board determines that county funds for an expressway project shall be financed in whole or in part from current budgets, the county auditor shall include such amounts in the proper proposed budget under s. 59.84 (5). The county board shall adopt expressway project budgets with such changes as it deems proper. When adopted, the county contribution to the expressway project shall constitute a legal appropriation and shall be expendable to the extent that expressway bonds have been authorized or money otherwise provided. The board may amend any expressway project budget and may transfer appropriations from one expressway project to another.

(c) *Acceptance of gifts.* The board may accept, in the name of the county, grants, conveyances and devises of land, improvements thereon and any and all interests whatsoever therein and bequests and donations of money to be used for expressway purposes.

(d) *Acquisition of lands and interests therein.* 1. The board may acquire in the name of the county or in the name of the state when so directed by the department of transportation, by donation, purchase, condemnation or otherwise, such lands, including any improvements thereon, and any interests, easements, franchises, rights and privileges in or pertaining to lands, of whatever nature and by whomsoever owned, as the board deems are necessary and required for expressway purposes, and to dispose of the same. The board may use expressway lands for the location or relocation of any facility for mass transportation, including private or public utilities. The board may purchase or accept donation of remnants of tracts or parcels of land remaining at the time or after it has acquired by condemnation or after or coincident with its acquisition by purchase or donation portions of such tracts or parcels for expressway purposes where in the judgment of the board such action would assist in rendering just compensation to a landowner, a part of whose lands are required for expressway purposes, and would serve to minimize the over-all cost of such necessary taking by the public. The county may dispose of such remnants. No lands or interest of any kind therein acquired as provided in this paragraph shall be disposed of by the county without the consent of the board, and all moneys received for any such lands, improvements thereon or interests of any kind therein, so disposed of, shall be credited to the land acquisition account as an abatement of expense. No lands acquired by the board, as provided in this subsection, in the name of or in trust for the state, shall be disposed of by the county without prior approval of the state, and the proceeds of the sale shall be remitted to the state or retained and used for expressway purposes when so directed by the department of transportation.

2. After the general plan of expressways has been adopted, the board may, for specific approved highway projects or otherwise, acquire lands and interests therein of the nature and in the manner specified in this paragraph for the right-of-way of the expressways in advance of the time of the adoption of an expressway project budget including the lands and interests. Such power may be exercised when in the judgment of the board the public interest will be served and economy effected by forestalling development of the lands which will entail greater acquisition costs at a later date. Upon such acquisition the board may improve, use, maintain or lease the lands until the same are required for expressway construction. It is recognized that there may necessarily be a period of time between the acquisition of needed lands for right-of-way and the commencement

of actual site clearance and construction, but such fact shall not minimize the public purpose of the acquisition. The owners of the lands at the time of the acquisition shall have the first right to enter into lease thereof with the county until the lands are needed for expressway construction. Any lands so leased for more than one year shall be subject to general property taxation during the term of the lease. All rentals shall be credited to the project or to the expressway land acquisition account. The board may provide out of funds acquired by bond issue or otherwise a land acquisition fund not in excess of \$5,000,000 of expendable funds at any one time, to be used primarily for the acquisition of lands, improvements thereon and interests therein as specified in this subsection prior to the approval of the specific expressway project for which the lands or interests will be required. The fund shall be adjusted to reflect acquisition costs for lands and interests therein thereafter incorporated in specific approved expressway projects by transferring both the appropriations and the acquisition costs therefor to the proper expressway improvement expenditures account.

3. When an expressways project for which lands, improvements thereon and any or all interests therein have been paid for from any expressway land acquisition fund or account becomes activated by the board, the department of transportation may reimburse the expressway land acquisition fund by allocation of funds which may be made available under any state or federal statute to reimburse prior disbursements from the land acquisition fund to acquire the lands, improvements thereon or interests therein or appurtenant thereto. All state or federal funds thus received shall be used for expressway purposes.

4. The board, in acquiring lands, improvements thereon and interests therein and appurtenant thereto as provided in this subsection, may acquire the same in fee simple or by easement for highway purposes as it may by order determine. In any such acquisition, the board may, and shall when requested by the department of transportation, act in the name of the state as the agent of the department of transportation and in other cases shall act in the name of the county. The board in making the acquisition may proceed under ch. 32.

5. Whenever, prior to actual expressway project construction, a saving is shown to be probable in the cost of constructing a proposed new municipal or privately owned public utility (which, if presently installed in a public way in a proposed normal manner, would ultimately be interfered with by expressway construction) by initially constructing the municipal or privately owned public utility in other than a normal

manner to accommodate future expressway construction, in order to effect savings by avoiding reconstruction and relocating at a later date, the board may contract with the municipal government or utility company involved for the construction of the public utility in such other than normal manner and to pay to it the portion of the cost of the special construction in excess of the cost if constructed in the proposed normal manner. Funds for such purpose may be taken from the land acquisition fund authorized in subd. 2.

6. When the board has acquired title to lands in fee either for the county or the state, the county may use and develop any portion of the lands not directly needed for expressway-roadway purposes and which do not interfere with the primary expressway purpose, and without exclusion because of enumeration the power to use the subsoil beneath the ground, the ground level area or air space above the ground, for parking, storage or building purposes subject to municipal land use zoning regulations except as to parking, but if the expressway right-of-way area is either on the federal interstate system or on a state trunk highway, the consent of the department of transportation to such development and use shall be obtained prior to construction or initiation of such use, and the state shall receive a share of the rentals or sale price derived from such use in the proportion that the amount of federal or state funds used in the purchase of the site bears to the total cost of the land and improvement which is the subject of the sale or rental. Such sharing shall not be made until the county has been reimbursed for all sums expended by it, in the developments referred to in this paragraph, and such sharing shall terminate when the fair proportion of the federal and state funds allocable to the purchase of the area so developed has been reimbursed.

(e) *Contracts.* The board may construct and administer projects under its jurisdiction, and may contract in the name of the county with the department of transportation as may be necessary under state and federal statutes to secure state and federal aid on expressway projects.

(f) *Vacation, relocation, reconstruction of streets, alleys, etc.* 1. Whenever the board determines that it is necessary for the proper construction of an expressway project that streets or alleys be vacated in whole or in part, or be dead-ended at the expressway right-of-way line; that existing streets or alleys be relocated; that new streets or alleys be laid out and opened; that accessory streets or ramps to serve as approaches to the expressway be constructed; that existing streets leading to or off from expressway ramps be designated as one-way streets for such reasonable distance as is necessary for the proper operation of the facility; that the grade of

existing streets be changed or that the traveled portion of existing streets be widened and improved so as to facilitate entrance to the expressway, it shall formulate a tentative order evidencing such requirement and file a certified copy thereof with the clerk of each town, city or village affected by the tentative order for consideration thereof by the governing body of the town, city or village.

2. The governing body or the committee which the governing body designates shall hold a public hearing in considering the tentative order and shall publish in the county a class 2 notice, under ch. 985, of such hearing.

3. If the tentative order is not approved within 90 days from the date of the filing, the board shall present the tentative order to the transportation commission, which shall hold a public hearing thereon, of which hearing the municipality in question shall be given notice. The transportation commission shall have jurisdiction to pass upon the necessity and reasonableness of the proposed tentative order, and it may approve, modify and approve or disapprove the order. The commission's decision thereon shall be final, with no review allowed under ch. 227.

4. If the tentative order is approved by the governing body of the municipality affected, or if it is approved or modified and approved by the transportation commission, the board may thereafter issue a final order identical with the original tentative order as modified by the transportation commission's decision. A certified copy of the final order shall be filed with the clerk of the town, village or city affected. Notice of the making of the order shall be published in the county as a class 1 notice, under ch. 985.

5. The governing body of the town, village or city shall, within 30 days after filing, take the necessary action to comply with the order and in so doing shall not be limited by the objections of any abutting owner, and s. 80.32 (4) shall not be applicable to any vacation or discontinuance required by the order and any such town, village or city may act upon the initiative of its governing body without the necessity of obtaining the consent of any abutting owners, notwithstanding chs. 60, 61, 62 and 66 and s. 80.32 (4) and any other provisions of law to the contrary.

6. If the town, village or city does not comply with the order within a reasonable time, the board may perform the work required by the order with its own forces or by contract and in so doing and for such purpose shall have the same powers and freedom from limitations as are vested by the above specified chapters and this subsection in the governing body of the town, village or city.

7. The plans, specifications, proposed contracts and the appraisal of damages, if any,

caused to abutting owners by compliance with the order shall be subject to approval by the board prior to the commencement of any work under the order but such requirement for approval of the order shall not affect the abutting property owners' rights of appeal from the determination of damages by the commissioner of public works of the city or by any other authorized person or body.

8. The cost of performing such work as may be required by any order of the board under this subsection, including damages granted for changes of legally established grade or necessary acquisition of lands, shall be paid by the county from expressway funds as an item of the particular expressway project budget upon presentation of vouchers which have been approved for payment by the governing body of the town, village or city and the board. If the payment made by the county has been increased by reason of the town, city or village requesting an expenditure in excess of replacement or termination costs, the town, village or city shall reimburse the county for the excess cost. The reimbursement shall be credited by the county to abatement of the respective expense for which it was received.

(g) *Relocation of municipal utilities.* 1. The board, subject to approval by the public service commission after public hearing to all interested parties in cases in which the public service commission would have jurisdiction, may by order require any town, village or city through which an expressway project is to be constructed to remove, relocate and replace in kind or with equal facilities, or if the town, village or city shall so request by enlarged facilities, any sewer, street lighting or other like utility service the location of which interferes with construction of an expressway project. If enlarged facilities are requested the town, village or city shall bear that part of the cost of the improvement which exceeds the cost of the replacement of the existing facility in kind or with equal materials or facilities. However the board shall bear the excess cost where the installation of the enlarged facility is caused by designed construction and use of the expressway. A certified copy of the order shall be filed with the clerk of each town, village or city affected and upon the filing each such town, village or city shall within 30 days take the necessary action to comply with the order. All plans, specifications and contracts for any of the work shall be subject to approval by the board. When the work under specific contracts has been completed and approved by the governing body of the town, village or city and the board, the county shall pay for the work from expressway funds as an item of the particular expressway project budget. If the payments

made by the county exceed the replacement costs and the additional cost was incurred at the specific request of the town, village or city, the town, village or city shall reimburse the county therefor. The reimbursement shall be credited by the county as an abatement of the respective expenses for which it is received. If deemed feasible and desirable by the board any work provided for in this paragraph may be performed by the board or directly by contract. In such cases the town, village or city in which the work is performed shall cooperate with the board.

2. With respect to any water utility of any city, town or village which utility, in addition to providing water for human consumption, performs governmental functions in the way of providing water for fire protection, sewerage operation, street sanitation, park bathing pools and the like, the board shall have the same powers and be subject to the same obligations as are provided in subd. 1. However, water storage tanks, water pumping stations and water reservoirs may be removed, relocated and replaced by the board only with the consent and approval of the city, town or village owning and operating the facilities.

(h) *Private occupancy of streets; relocation.*

1. All persons other than those mentioned in par. (g) lawfully having buildings, structures, works, conduits, mains, pipes, wires, poles, tracks or any other physical facilities in, over or under the public lands, streets, highways, alleys, parks or parkways of the county, or of any town, village or city therein, which in the opinion of the board in any manner interfere with the construction of any expressway project or the relocation or maintenance thereof, shall upon order by the board promptly so accommodate, relocate or remove the same as may be ordered by the board so as to remove such interference.

2. Whenever the board proposes to consider adoption of an expressway project, it shall give notice thereof to each privately owned public utility or other person affected by the project indicating in the notice the action which it desires the utility or person to take, and the utility or person shall within 90 days after receipt of the notice furnish to the board its plan to comply with the request.

3. When the utility, pursuant to the board's order, proceeds with the work in a manner satisfactory to the board, the county shall pay the utility from expressways funds upon monthly estimates of work performed and submitted for payment by the utility, two-thirds of the net cost incurred by the utility in performing the work, after deducting reasonable and fair credits for items salvaged, for any betterments made at the option of the company and for the

value as carried on the utility's books, of the used life of a facility retired from use if the service life of the new facility will extend beyond the expectancy of the one removed. The county shall not be liable to pay any value whatever for utility facilities where use of the same has been abandoned for reasons other than the construction or proposed construction of an expressway project even though the installation is intact.

4. The board and any utility required to accommodate, relocate or remove a utility facility described in subd. 1 may by agreement provide for the respective amounts of the cost to be borne by each so as to resolve any dispute as to the allowance of charges and credits as set forth in this paragraph. When the agreement has been concluded, the county shall pay out of expressway funds its share of the cost upon monthly estimates of work performed and submitted for payment by the utility.

5. If the board and any privately owned public utility are unable to agree as to the division of the costs, either may appeal to the public service commission, which body shall determine the proper amounts of reimbursement according to the provisions expressed in this paragraph. Either party may have a review of the public service commission's decision in the manner provided in ch. 227. If it is determined upon such review that the county has paid more than two-thirds of the net cost of compliance by a utility with the board's order, any overage shall be reimbursed to the county by the utility.

6. No appeal shall delay construction of the expressway project or compliance by the privately owned public utilities with the orders of the board. Compliance shall not prejudice the rights of either the board or the utilities in any pending appeal.

7. If any person refuses to comply with an order of the board as promulgated under this paragraph, the board may have a writ of assistance from the circuit court to compel compliance, and the person shall be liable for all damages caused to the board by the delay.

8. If a steam or electric railroad track crosses or is crossed by an expressway project, ss. 195.28 to 195.291 shall apply.

9. The reimbursement to private utilities provided in this paragraph shall be limited to expressway projects as provided in this section.

(i) *Entry on private lands.* The board, its agents or servants, may enter upon any land in the county for the purpose of making surveys, test borings or any other type of examination necessary in the performance of its duties and shall be liable to restore the surface of said lands to the same or as good condition as existed at the time of such entry and for any other actual and

demonstrable damage caused to said lands by such entry.

(j) *Traffic types and speed limits.* After an expressway project has been certified as completed, the public body having jurisdiction over the maintenance thereof shall have the power to regulate the type of vehicular use of such portion of the expressway except as limited by federal and state laws and regulations, and the power to fix speed limits thereon not in excess of the maximum speed limits for state trunk highways, and to provide and enforce reasonable penalties for infraction of such vehicular use regulation or speed limits. Notwithstanding s. 346.16 (2), the use of the expressways by pedestrians, motor scooters, bicycles, funeral processions, animals on foot and the hauling of oversized equipment without special permit shall be prohibited when an ordinance in conformity herewith is adopted by the county board, but any forfeiture provided therein shall not exceed the maximum forfeiture under s. 346.17 (2). The county board may not prohibit the towing of disabled vehicles on expressways, except that the board may prohibit the towing of disabled vehicles during the peak hours of 7 a.m. to 9 a.m. and 4 p.m. to 6:30 p.m. as established under county ordinance and except that the board may establish procedures for and may contract for the towing of vehicles which have become disabled on the expressway.

(k) *Building permits on lands in expressway routes.* Each town, village or city through which a route of the approved expressway plan, as amended from time to time, shall pass, shall be given a formal notice of the route and a map thereof. Thereafter, when an owner of land within the right-of-way of an expressway indicated on the map applies for a building permit affecting such lands, final action on the application shall be deferred for a reasonable time not exceeding 60 days and the municipality shall within 5 days after receipt of the application notify the board thereof.

(l) *Forces to construct expressway projects.* The board may use its own forces to construct expressway projects in whole or in part or may use county highway forces for such purposes.

(m) *Rules and regulations.* The board shall have power to make all rules and regulations concerning its work.

(n) *Meetings; reports.* The board shall hold meetings for the transaction of business under this section and all such meetings shall be open to the public. The board shall prepare annually a report of its official transactions and expenditures under this section and shall mail the statement to the governor, to the mayor of the largest city in the county and to the chief executive head of the governing boards of all cities, towns and villages in the county.

(o) *Applicability of pars. (a) to (n).* Paragraphs (a) to (n) also apply insofar as applicable to the exercise of the powers and duties of the board in the planning and construction of mass transit facilities.

(4) **TRANSFER OF PRIOR EXPRESSWAY STUDIES AND REPORTS.** The county expressway and transportation commission created under s. 59.965 (2), 1977 stats., and the governmental authorities of the largest city in the county shall transfer and deliver to the board the original or certified copy of all maps and engineering studies and reports pertaining to an expressways system in the city and county, together with all contracts pertaining to the creation and construction of expressways. Upon demand by the board the largest city in the county with the approval of the common council shall execute and deliver to the county quitclaim deeds of all lands acquired or dedicated or owned by the city and needed for the purpose of right-of-way for the expressways, if the cost thereof was included in the determination of prior expressway expenditures.

(6) **REIMBURSEMENT FOR PRIOR EXPRESSWAY FINANCING.** Municipalities shall be reimbursed for prior expressway project expenditures. Any expressway projects under construction at the time the county expressway and transportation commission was created and the transfer of functions to the commission was effectuated under s. 59.965, 1977 stats., shall be completed by the board. Such municipalities shall be reimbursed for prior expressway expenditures and obligation incurred for the cost of right-of-way acquisition and clearance, construction engineering, and actual construction to the extent of the municipalities' contribution from tax levy or bond funds. Each such municipality shall calculate its contribution and certify the contribution with full data to the board. It shall then be subject to consideration, audit and approval by the board. If approved by the board, reimbursement shall be made on a 10-year instalment basis by levying a tax against all the municipalities of the county on an equalized valuation basis, and offsetting the amount thereof to the municipalities entitled to reimbursement.

(7) **AGREEMENTS FOR USE OF FEDERAL AID TO RETIRE MATURITIES.** The department of transportation and any county having a population of 500,000 or more may enter into an agreement providing that when the proceeds of bonds issued by the county are expended in the improvement of a portion of the federal aid highway system as a part of the comprehensive expressway system in the county, and are so expended under ch. 84, and in compliance with

section 5 of the federal aid highway act of 1950, or acts amendatory of or supplementary to such section, and regulations applicable thereto, the sum of money derived from federal aid for highways which may be authorized by the congress and apportioned to this state for any fiscal year as shall be stipulated in the agreement may be applied to aid in retirement of annual maturities of the principal indebtedness of such bonds, and that to the extent that federal aid can be claimed and received by the state for such purpose, it will upon receipt be paid to the county. Any money so paid shall be deposited by the county in the sinking fund provided for the retirement of the bond issue of which the bonds formed a part.

**(8) AGREEMENTS FOR STATE AID TO RETIRE MATURITIES.** The department of transportation may enter into a contract with a county containing a population of 500,000 or more providing that, to the extent that the proceeds of bonds issued by the county are expended under ch. 84 in the improvement of state trunk highways or connecting highways, in addition to the agreed county share of the improvement and for which the county has not been or will not be reimbursed with federal funds, such sum as may be approved by the department of transportation in any fiscal year will be paid to the county to aid in retirement of the annual maturities of the principal indebtedness of the bonds from funds appropriated and available to the department of transportation for the improvement of state trunk highways or connecting highways. Payments may be made pursuant to the agreement, before or after the bonds mature, from funds appropriated and available to the department of transportation for the improvement of state trunk highways or connecting highways after making provision for adequate maintenance and traffic service, but this section or the agreement shall not constitute a commitment on the part of this state or the county to provide the funds. Any money so paid shall be deposited by the county in its sinking fund created for the purpose of payment of the bond issue of which the bonds formed a part.

**(9) STAFF.** (a) *Other departments and officers.* The staff of the county highway department, under the direction of the county highway commissioner, shall perform all technical work required by the board. Any municipality having an expressway staff shall, upon request of the county board, transfer the staff to the county, and the agents and employes of the municipal staff shall thereupon become integrated into county civil service in the county highway department. The county board may hire upon a

contract basis such expert consultant services as it deems necessary to assist in the planning of the expressway system.

(b) *Records and equipment.* The board shall provide a suitable place where the maps, plans, documents, and records of the board under this section shall be kept, subject to public inspection at all reasonable hours and under such reasonable regulations as the board may prescribe.

**(10) MAINTENANCE AND OPERATION.** (a) *Maintenance and operation.* Whenever any expressway project is opened to traffic, the certification of such fact shall be filed with the clerk of the municipality in which the project is located. The notice shall be filed by the department of transportation in all cases where the construction contract has been awarded by the department of transportation, or by the board where the construction contract has been awarded by the board. Thereafter the portion of the expressway system included in such opening shall be operated and maintained by the county, but if any expressway project is selected and designated as a state trunk or interstate highway that portion of the expressway shall be maintained by the state. The maintenance responsibility of the county or state shall include all areas within the right-of-way fence lines and between the right-of-way fence lines and the curb lines of adjacent streets, except that connecting ramps constructed as a part of the expressway system shall be included in such maintenance to the near curb lines of the street with which they connect. All areas not specifically included within these described limits shall be maintained by the municipality in which the expressway is located, except that the state or county shall maintain the structural parts of bridges carrying local traffic over the expressway, including generally the footings, piers, columns, abutments and structural girders.

(b) *Policing of expressways.* Expressways shall be policed by the sheriff who may, when necessary, request and shall receive cooperation and assistance from the police departments of each municipality in which expressways are located, but nothing contained herein shall be construed to deprive such police departments of the power of exercising law enforcement on such expressways within their respective jurisdictions.

**(11) DESIGNATED STANDING COMMITTEE.** The board may designate a standing committee to perform all of the duties and to exercise all of the powers of the board under this section, except those powers and duties in sub. (2) (a) and (b). All actions of the standing committee

under this section may be modified and shall be approved or disapproved by the board.

**History:** 1971 c. 164; 1973 c. 333 s. 201w; 1977 c. 29 ss. 673, 1654 (3), (8) (c), (d), (e); 1977 c. 70, 203, 338; 1979 c. 310 ss. 3 to 8, 10, 12.

**59.967 County transit commission. (1)**

Any county in this state may enact an ordinance for the establishment, maintenance and operation of a comprehensive unified local transportation system, the major portion of which is or is to be located within or the major portion of the service of which is or is to be supplied to the inhabitants of such county, and which system is used or to be used chiefly for the transportation of persons and freight.

(2) The transit commission shall be designated "Transit Commission" preceded by the name of the enacting county.

(3) In this section:

(a) "Transit commission" or "commission" means the local transit commission created hereunder.

(b) "Comprehensive unified local transportation system" means a transportation system comprised of motor bus lines and any other local public transportation facilities, the major portions of which are within the county.

(4) The transit commission shall consist of not less than 7 members to be appointed by the county board, one of whom shall be designated chairman, except that in any county having a county executive, he shall make said appointments.

(5) (a) The first members of the transit commission shall be appointed for staggered 3-year terms. The term of office of each member thereafter appointed shall be 3 years.

(b) No transit commissioner shall hold any other public office.

(c) No person holding stocks or bonds in any corporation subject to the jurisdiction of the transit commission, or who is in any other manner directly or indirectly pecuniarily interested in any such corporation, shall be a member of the nor employed by the transit commission.

(6) The transit commission may appoint a secretary and employ such accountants, engineers, experts, inspectors, clerks and other employes and fix their compensation, and purchase such furniture, stationery and other supplies and materials, as are reasonably necessary to enable it properly to perform its duties and exercise its powers.

(7) (a) The transit commission may adopt rules relative to the calling, holding and conduct of its meetings, the transaction of its business, the regulation and control of its agents and employes, the filing of complaints and petitions

and the service of notices thereof and conduct hearings.

(b) For the purpose of receiving, considering and acting upon any complaints or applications which may be presented to it or for the purpose of conducting investigations or hearings on its own motion the transit commission shall hold regular meetings at least once a week except in the months of July and August in each year and special meetings on the call of the chairman or at the request of the county board.

(c) The transit commission may adopt a seal, of which judicial notice shall be taken in all courts of this state. Any process, writ, notice or other instrument which the commission may be authorized by law to issue shall be deemed sufficient if signed by the secretary of the commission and authenticated by such seal. All acts, orders, decisions, rules and records of the commission, and all reports, schedules and documents filed with the commission may be proved in any court in this state by a copy thereof certified by the secretary under the seal of the commission.

(8) The jurisdiction, powers and duties of the transit commission shall extend to the comprehensive unified local transportation system for which the commission is established including any portion of such system extending into adjacent or suburban territory within this state lying outside of the county not more than 30 miles from the nearest point marking the corporate limits of the county.

(9) Initial acquisition of the properties for the establishment of and to comprise the comprehensive unified local transportation system shall be subject to s. 66.065 or ch. 197.

(10) Any county may by contract under s. 66.30 establish a joint municipal transit commission, in cooperation with any county, city or village.

(11) In lieu of providing transportation services, a county may contract with a private organization for such services.

**History:** 1975 c. 224.

**59.968 Public transit in counties.** Any county board may:

(1) Purchase and lease busses to private transit companies operating within and outside the county.

(2) Apply for federal aids for purchase of such busses or other facilities deemed essential for operation.

(3) Make grants and provide subsidies to private transit companies operating bus lines principally within the county to stabilize, preserve or enhance levels of transit service to the public.

(4) Acquire a transportation system by purchase, condemnation under s. 32.05 or otherwise and provide funds for the operation and maintenance of such a system. "Transportation system" means all land, shops, structures, equipment, property, franchises and rights of whatever nature required for transportation of passengers or freight within the county, or between counties, including, without limitation, street railways, elevated railroads, subways, underground railroads, motor vehicles, trackless trolley busses, motor busses and any combination thereof, and any other form of mass transportation. Such acquisition and operation between counties shall be subject to chs. 193 and 194 and whenever the proposed operations between such counties would be competitive with the urban or suburban operations of another existing common carrier of passengers or freight, the county shall coordinate proposed operations with such carrier to eliminate adverse financial impact for such carrier. This coordination may include, but is not limited to, route overlapping, transfers, transfer points, schedule coordination, joint use of facilities, lease of route service and acquisition of route and corollary equipment. If such coordination does not result in mutual agreement, the proposals shall be submitted to the transportation commission for arbitration. The following forms of transportation are excepted from the definition of "transportation system":

(a) Taxicabs.

(b) School bus transportation businesses or systems engaged primarily in the transportation of children to or from school, and which are subject to the regulatory jurisdiction of the department of transportation and the department of public instruction.

(c) Charter or contract operations to, from or between points outside the county or contiguous or cornering counties.

(5) Acquire all of the capital stock of a corporation owning and operating a transportation system.

(6) Use any public road or street or highway for the transportation of passengers for hire without obtaining a permit or license from any city, village or town for the operation of a transportation system within such municipality but such use shall be subject to approval by the department of transportation.

(7) Upon the acquisition of a transportation system:

(a) Operate and maintain it or lease it to any operator or contract for its use by any operator.

(b) Contract for superintendence of the system with any organization which has personnel with the experience and skill necessary.

(c) Delegate responsibility for the operation and maintenance of the system to any appropriate administrative officer, board or commission of the county notwithstanding s. 59.965 or any other section of the statutes.

(d) Maintain and improve a railroad right-of-way and improvements thereon for future use.

(7m) A county may contract under s. 66.30 to establish a joint transit commission with other municipalities as defined under s. 66.30 (1).

(8) Subsections (4) to (7m) shall only apply if a county board by a two-thirds vote of its membership so authorizes.

History: 1973 c. 63; 1975 c. 224; 1977 c. 29 s. 1654 (9) (a), (f); 1977 c. 418.

Sub (3) authorizes a county to subsidize a bus company operating a route principally located within the county, even though the route is only 5% of the company's total business. 65 Atty. Gen. 191.

### 59.969 County obligations to employes of county mass transportation systems. (1)

Any county board acquiring a transportation system under s. 59.968 (4) shall assume all the employer's obligations under any contract between the employes and management of the system.

(2) Any county board acquiring, constructing, controlling or operating a transportation system under s. 59.968 (4) shall negotiate an agreement protecting the interests of employes affected by the acquisition, construction, control or operation. Such agreements shall include, but are not limited to, provisions for:

(a) The preservation of rights, privileges and benefits under any existing collective bargaining agreement or other agreement.

(b) The preservation of rights and benefits under any existing pension plans covering prior service, and continued participation in social security.

(c) The continuation of collective bargaining rights.

(d) The protection of individual employes against a worsening of their positions with respect to their employment to the extent provided by section 13 (c) of the urban mass transportation act, as amended (49 U.S.C. 1609 (c)).

(e) Assurances of employment to employes of such transportation systems and priority of reemployment of employes terminated or laid off.

(f) Assurances of first opportunity of employment in order of seniority to employes of any nonacquired system, affected by any new, competitive or supplemental public transportation system, in any unfilled nonsupervisory positions for which they can qualify after a reasonable training period.

(g) Paid training or retraining programs.

(h) Signed written labor agreements.

(3) Any agreement under sub. (2) may include provisions for the submission of labor disputes to final and binding arbitration by an impartial umpire or board of arbitration acceptable to the parties.

(4) In all negotiations under this section, the county executive if such office exists shall be a member of the county negotiating body.

History: 1973 c. 63

**59.97 Planning and zoning authority. (1)**

**PURPOSE.** It is the purpose of this section to promote the public health, safety, convenience and general welfare; to encourage planned and orderly land use development; to protect property values and the property tax base; to permit the careful planning and efficient maintenance of highway systems; to insure adequate highway, utility, health, educational and recreational facilities; to recognize the needs of agriculture, forestry, industry and business in future growth; to encourage uses of land and other natural resources which are in accordance with their character and adaptability; to preserve wetlands; to conserve soil, water and forest resources; to protect the beauty and amenities of landscape and man-made developments; to provide healthy surroundings for family life; and to promote the efficient and economical use of public funds. To accomplish this purpose the county board of any county may plan for the physical development and zoning of territory within the county as set forth in this section and shall incorporate therein the master plan adopted pursuant to s. 62.23 (2) or (3) and the official map adopted pursuant to s. 62.23 (6) of any city or village therein.

(2) **PLANNING AND ZONING AGENCY OR COMMISSION.** (a) The county board of any county may create a planning and zoning committee as a county board agency or may create a planning and zoning commission consisting wholly or partially of persons who are not members of the county board, designated the county zoning agency. In lieu of creating a committee or commission for this purpose, the county board may designate a previously established committee or commission as the county zoning agency, authorized to act in all matters pertaining to county planning and zoning.

(b) From its members, the county zoning agency shall elect a chairman whose term shall be for 2 years, and the county zoning agency may create and fill such other offices as it determines.

(c) Subject to change by the county board the county zoning agency may adopt such rules and regulations governing its procedure as it considers necessary or advisable. The county

zoning agency shall keep a record of its planning and zoning studies, its resolutions, transactions, findings and determinations.

(d) The county may accept, review and expend funds, grants and services and may contract with respect thereto and may provide such information and reports as may be necessary to secure such financial aid and services, and within such funds as may be made available, the county zoning agency may employ, or contract for the services of, such professional planning technicians and staff as are deemed necessary for the discharge of the duties and responsibilities of the county zoning agency.

(e) Wherever a public hearing is specified under this section, the hearing shall be conducted by the county zoning agency in the county courthouse or in such other appropriate place as may be selected by the county zoning agency. The county zoning agency shall give notice of the public hearing by publication in the county as a class 2 notice, under ch. 985.

(f) Whenever a county development plan, part thereof or amendment thereto, or a zoning ordinance or amendment thereto is adopted by the county board, a duplicate copy shall be certified by the county clerk and sent to the clerks of the cities, towns or villages affected thereby.

(3) **THE COUNTY DEVELOPMENT PLAN.** (a) The county zoning agency shall direct the preparation of a county development plan or parts thereof for the physical development of the unincorporated territory within the county and areas within incorporated jurisdictions whose governing bodies by resolution agree to having their areas included in the county's development plan. Such plan may be adopted in whole or in part and may be amended by the county board and indorsed by the governing bodies of any incorporated jurisdictions included in the plan. The county development plan, in whole or in part, in its original form or as amended, is hereafter referred to as the development plan.

(b) The development plan may include without limitation because of enumeration:

1. Comprehensive surveys, studies and analyses of the history, existing land use, population and population density, economy, soil characteristics, forest cover, wetland and flood plain conditions and other human and natural features of the county and shall include the master plan, if any, of any city or village, which was adopted pursuant to s. 62.23 (2) or (3) and the official map, if any, of such city or village which was adopted pursuant to s. 62.23 (6) in such county, without change.

2. Based on such comprehensive surveys, studies and analyses, the plan may identify goals and objectives for the future physical develop-

ment of the county with respect to: public and private use of land and other natural resources; highways including bridges, viaducts, parkways and other public ways; parks, playgrounds, hunting and fishing grounds, forests and other facilities of a recreational nature; public buildings and institutions including schools; sanitary and storm sewers, drainage and measures for disposal of refuse and waste; reducing and preventing stream and lake pollution; flood control; public and private utilities including water, light, heat, transportation, pipelines and other services; industrial and commercial sites; and other factors which will improve the physical and economic situation of the county.

(c) The development plan may be in the form of descriptive material, reports, charts, diagrams or maps. Each element of the development plan shall describe its relationship to other elements and to statements of goals, objectives, principles, policies or standards.

(d) The county zoning agency shall hold a public hearing on the development plan before approving it. After approval of the plan the county zoning agency shall submit the plan to the county board for its approval and adoption. The plan shall be adopted by resolution and when adopted it shall be certified as provided in sub. (2) (f). The development plan shall serve as a guide for public and private actions and decisions to assure the development of public and private property in appropriate relationships.

(e) A master plan adopted under s. 62.23 (2) and (3) and an official map established under s. 62.23 (6) shall control in unincorporated territory in a county affected thereby, whether or not such action occurs prior to the adoption of a development plan.

**(4) EXTENT OF POWER.** For the purpose of promoting the public health, safety and the general welfare the county board of any county may by ordinance effective within the areas within such county outside the limits of incorporated villages and cities establish districts of such number, shape and area, and adopt such regulations for each such district as the county board shall deem best suited to carry out the purposes of this section. The powers granted by this section shall be exercised through an ordinance which may determine, establish, regulate and restrict:

(a) The areas within which agriculture, forestry, industry, trades, business and recreation may be conducted.

(b) The areas in which residential uses may be regulated or prohibited.

(c) The areas in and along or in or along natural watercourses, channels, streams and creeks in which trades or industries, filling or

dumping, erection of structures and the location of buildings may be prohibited or restricted.

(d) Trailer camps, or tourist camps and motels or both and mobile home parks.

(e) Designate certain areas, uses or purposes which may be subjected to special regulation.

(f) The location of buildings and structures designed for specific uses and designation of uses for which buildings and structures may not be used or altered.

(g) The location, height, bulk, number of stories and size of buildings and other structures.

(h) The location of roads and schools.

(i) Building setback lines.

(j) The density and distribution of population.

(k) The percentage of lot which may be occupied, size of yards, courts and other open spaces.

**(5) FORMATION OF ZONING ORDINANCE; PROCEDURE.** (a) When the county zoning agency has completed a draft of a proposed zoning ordinance, it shall hold a public hearing thereon, following publication in the county of a class 2 notice, under ch. 985. After such hearing the agency may make such revisions in the draft as it shall deem necessary, or it may submit the draft without revision to the county board with recommendations for adoption. Proof of publication of the notice of the public hearing held by such agency shall be attached to its report to the county board.

(b) When the draft of such ordinance, recommended for adoption by the zoning agency, is received by the county board, it may adopt the ordinance as submitted, or reject it, or return it to the agency with such recommendations as the county board may see fit to make. In the event of such return subsequent procedure by the agency shall be as if the agency were acting under the original directions. When adopted, duplicate copies of the ordinance shall be submitted by the county clerk by registered mail to each town clerk for consideration by the town board.

(c) A county ordinance adopted as provided by this section shall not be effective in any town until it has been approved by the town board. If the town board approves an ordinance adopted by the county board, as provided by this section, a certified copy of the approving resolution attached to one of the copies of such ordinance submitted to the town board shall promptly be filed with the county clerk by the town clerk. Such ordinance shall become effective in such town as of the date of such filing, which filing shall be recorded by the county clerk in his office, reported to the town board and the county board, and printed in the proceedings of

the county board. Such ordinance shall supersede any prior town ordinance in conflict therewith or which is concerned with zoning, except as provided by s. 60.74 (7).

(d) The county board may by a single ordinance repeal an existing county zoning ordinance and reenact a comprehensive revision thereto in accordance with this section. "Comprehensive revision" as used herein means a complete rewriting of an existing zoning ordinance which changes numerous zoning provisions and alters or adds zoning districts. The comprehensive revision may provide that the existing ordinance shall remain in effect in a town for a period of up to one year or until the comprehensive revision is approved by the town board, whichever period is shorter. If the town board fails to approve the comprehensive revision within a year neither the existing ordinance nor the comprehensive revision shall be in force in that town. Any repeal and reenactment prior to November 12, 1965 which would be valid under this paragraph is hereby validated.

(e) The county board may amend the regulations of an ordinance or change the district boundaries. The procedure with reference to such amendments or changes shall be as follows:

1. A petition for amendment of any county zoning ordinance may be made by any property owner in the area to be affected by the amendment, by the town board of any town wherein the ordinance is in effect; by any member of the county board or by the agency designated by the county board to consider county zoning matters as provided in sub. (2) (a). The petition shall be filed with the county clerk who shall immediately refer it to the county zoning agency for its consideration, report and recommendations. Immediate notice of the petition shall be sent to the county supervisor of any affected district. A reporting of all petitions referred under this paragraph shall be made to the county board at its next succeeding meeting.

2. Upon receipt of such petition by such agency it shall call a public hearing thereon. Notice of the time and place of such hearing shall be given by publication in the county of a class 2 notice, under ch. 985. A copy of such notice shall be mailed by registered mail to the town clerk of each town affected by the proposed amendment at least 10 days prior to the date of such hearing.

3. If a town affected by the proposed amendment disapproves of the proposed amendment, the town board of such town may file a certified copy of the resolution adopted by such board disapproving of the petition with the agency prior to, at or within 10 days after the public hearing. If the town board of the town affected in the case of an ordinance relating to the

location of boundaries of districts files such a resolution, or the town boards of a majority of the towns affected in the case of all other amendatory ordinances file such resolutions, the agency may not recommend approval of the petition without change, but may only recommend approval with change or recommend disapproval.

4. As soon as possible after such public hearing, the agency shall act, subject to subd. 3, on such petition either approving, modifying and approving, or disapproving of the same. If its action is favorable to granting the requested change or any modification thereof, it shall cause an ordinance to be drafted effectuating its determination and shall submit such proposed ordinance directly to the county board with its recommendations. If the agency after its public hearing shall recommend denial of the petition it shall report its recommendation directly to the county board with its reasons for such action. Proof of publication of the notice of the public hearing held by such agency and proof of the giving of notice to the town clerk of such hearing shall be attached to either such report. Notification of town board resolutions filed under subd. 3 shall be attached to either such report.

5. Upon receipt of such agency report the county board may adopt the ordinance as drafted by the zoning agency or with amendments, or it may deny the petition for amendment, or it may refuse to deny the petition as recommended by the agency in which case it shall rerefer the petition to the agency with directions to draft an ordinance to effectuate the petition and report the same back to the county board which may then adopt or reject such ordinance. In case a protest against a proposed amendment is filed with the county clerk at least 24 hours prior to the date of the meeting of the county board at which the report of the zoning agency is to be considered, duly signed and acknowledged by the owners of 50% or more of the area proposed to be altered, or by abutting owners of over 50% of the total perimeter of the area proposed to be altered included within 300 feet of the parcel or parcels proposed to be rezoned, action on such ordinance may be deferred until the zoning agency has had a reasonable opportunity to ascertain and report to the county board as to the authenticity of such ownership statements. Each signer shall state the amount of area or frontage owned by him and shall include a description of the lands owned by him. If such statements are found to be true, such ordinance shall not be adopted except by the affirmative vote of three-fourths of the members of the county board of supervisors present and voting. If such statements are found to be untrue to the extent that the re-

quired frontage or area ownership is not present such protest may be disregarded.

6. If any such amendatory ordinance makes only the change sought in the petition and if the petition was not disapproved at or within 10 days after the public hearing by the town board of the town affected in the case of an ordinance relating to the location of district boundaries or by the town boards of a majority of the towns affected in the case of all other amendatory ordinances, it shall become effective on passage. The county clerk shall record in his office the date on which such ordinance becomes effective and he shall notify the town clerk of all towns affected by such ordinance of such effective date and also insert such effective date in the proceedings of the county board. Any other such amendatory ordinance when so adopted shall within 7 days thereafter be submitted in duplicate by the county clerk by registered mail to the town clerk of each town in which lands affected by such ordinance are located. If after 40 days from the date of such adoption a majority of such towns have not filed certified copies of resolutions disapproving such amendment with the county clerk, or if, within a shorter time a majority of the towns in which the ordinance is in effect have filed certified copies of resolutions approving the amendment with the county clerk, the amendment shall thereupon be in effect in all of the towns affected by the ordinance. Any such ordinance relating to the location of boundaries of districts shall within 7 days after adoption by the county board be transmitted by the county clerk by registered mail only to the town clerk of the town in which the lands affected by such change are located and shall become effective 40 days after the adoption of the ordinance by the county board unless such town board prior to such date files a certified copy of a resolution disapproving of such ordinance with the county clerk. If such town board approves the ordinance, said ordinance shall become effective upon the filing of the resolution of the town board approving same with the county clerk. The county clerk shall record in his office the date on which such ordinance becomes effective and he shall notify the town clerk of all towns affected by such ordinance of such effective date and also make such report to the county board, which report shall be printed in the proceedings of the county board.

7. When any lands previously under the jurisdiction of a county zoning ordinance have been finally removed from such jurisdiction by reason of annexation to an incorporated municipality, and after the regulations imposed by the county zoning ordinance have ceased to be effective as provided in sub. (7), the county board may, on the recommendation of its zoning agency, adopt

such amendatory ordinances as shall remove or delete such annexed lands from the official zoning map or written descriptions without following any of the procedures provided in subs. 1 to 6, and such amendatory ordinances shall become effective upon passage and publication. A copy of such ordinance shall be forwarded by the county clerk to the clerk of each town in which the lands affected were previously located. Nothing in this paragraph shall be construed to nullify or supersede s. 80.64.

**(6) OPTIONAL ADDITIONAL PROCEDURES.** Nothing in this section shall be construed to prohibit the zoning agency or the county board or a town board from adopting any procedures, formal or informal, in addition to those prescribed in this section and not in conflict therewith. Such procedures may, but are not required to, provide for public hearings before the county board. The public hearing provided by sub. (5) (a) and (e) 2 is deemed to be sufficient for the requirements of due process whether or not the county board holds a further public hearing thereafter.

**(7) CONTINUED EFFECT OF ORDINANCE.** Whenever any area which has been subject to a county zoning ordinance petitions to become part of a village or city, the regulations imposed by such county zoning ordinance shall continue in effect, without change, and shall be enforced by such village or city until such regulations have been changed by official action of the governing body of such village or city, except that in the event an ordinance of annexation is contested in the courts, the county zoning shall prevail and the county shall have jurisdiction over the zoning in the area affected until ultimate determination of the court action.

**(8) EXCHANGE OF TAX DEEDED LANDS.** When any county acquires lands by tax deeds, the county board may exchange any such lands for others lands in the county for the purpose of promoting the regulation and restriction of agricultural and forestry lands.

**(9) ZONING OF COUNTY OWNED LANDS.** The county board may by ordinance zone and rezone any lands owned by the county without necessity of securing the approval of the town boards of the towns wherein such lands are situated and without following the procedure outlined in sub. (5), provided that the county board shall give written notice to the town board of the town wherein such lands are situated of its intent to so rezone and shall hold a public hearing on the proposed rezoning ordinance and give notice of such hearing by posting in 5 public places in the town.

**(10) NONCONFORMING USES.** (a) An ordinance under this section shall not prohibit the

continuance of the lawful use of any building or premises for any trade or industry for which such building or premises is used at the time such ordinances take effect, but the alteration of, or addition to, or repair in excess of 50% of its assessed value of any existing building or structure for the purpose of carrying on any prohibited trade or new industry within the district where such buildings or structures are located, may be prohibited. The continuance of the nonconforming use of a temporary structure may be prohibited. If such nonconforming use is discontinued for a period of 12 months, any future use of the building and premises shall conform to the ordinance.

(b) The county board shall designate an officer to administer the zoning ordinance, who may be the secretary of the zoning agency or other appropriate person. The officer thus designated shall cause a record to be made immediately after the approval of an ordinance or amendment thereto, or change in district boundary, approved by the town board, of all lands, premises and buildings in the town used for purposes not conforming to the regulations applicable to the district in which they are situated. Such record shall include the legal description of the lands, the nature and extent of the uses therein, and the names and addresses of the owner or occupant or both. Promptly on its completion such record shall be published in the county as a class 1 notice, under ch. 985. Such record, as corrected, shall be on file with the register of deeds 60 days after the last publication and shall be prima facie evidence of the extent and number of nonconforming uses existing on the effective date of the ordinance in the town. Corrections prior to the filing of the record with the register of deeds may be made on the filing of sworn proof in writing, satisfactory to the officer administering the zoning ordinance.

(c) The county board shall prescribe a procedure for the annual listing of nonconforming uses, discontinued or created, since the previous listing and for all other nonconforming uses. Discontinued and newly created nonconforming uses shall be recorded with the register of deeds immediately after the annual listing.

(d) Paragraphs (b) and (c) shall not apply to those counties issuing building permits or occupancy permits as a means of enforcing the zoning ordinance or to counties which have provided other procedures for this purpose.

**(11) PROCEDURE FOR ENFORCEMENT OF COUNTY ZONING ORDINANCE.** The county board shall prescribe such rules and regulations and administrative procedures, and provide such administrative personnel as it may deem necessary for the enforcement of the provisions of this

section, and all ordinances enacted in pursuance thereof. Such rules and regulations and the districts, setback building lines and regulations authorized by this section, shall be prescribed by ordinances which shall be declared to be for the purpose of promoting the public health, safety and the general welfare. Such ordinances shall be enforced by appropriate fines and penalties. Compliance with such ordinances may also be enforced by injunctive order at the suit of such county or the owner or owners of real estate within the district affected by such regulation.

**(12) PRIOR ORDINANCES EFFECTIVE.** Nothing in this section shall invalidate any county zoning ordinance adopted pursuant to statutes in effect prior to July 20, 1951.

**(13) CONSTRUCTION OF SECTION.** The powers herein granted shall be liberally construed in favor of the county exercising them, and this section shall not be construed to limit or repeal any powers now possessed by any such county.

**(14) LIMITATION OF ACTIONS.** A landowner, occupant or other person affected by a county zoning ordinance or amendment, who claims that the ordinance or amendment is invalid because procedures prescribed by the statutes or the ordinance were not followed, shall commence an action within the time provided by s. 893.73 (1), except this subsection and s. 893.73 (1) do not apply unless there has been at least one publication of a notice of a zoning hearing in a local newspaper of general circulation and unless there has been held a public hearing on the ordinance or amendment at the time and place specified in the notice.

**(15) COMMUNITY LIVING ARRANGEMENTS.** For purposes of this section, the location of a community living arrangement, as defined in s. 46.03 (22), in any city, village or town, shall be subject to the following criteria:

(a) No community living arrangement may be established after March 28, 1978 within 2,500 feet, or any lesser distance established by an ordinance of a city, town or village, of any other such facility. Agents of a facility may apply for an exception to this requirement, and such exceptions may be granted at the discretion of the local municipality. Two community living arrangements may be adjacent if the local municipality authorizes that arrangement and if both facilities comprise essential components of a single program.

(b) Community living arrangements shall be permitted in each city, village or town without restriction as to the number of facilities, so long as the total capacity of the community living arrangements does not exceed 25 or one percent of the municipality's population, whichever is greater. When the capacity of the community

living arrangements in the municipality reaches that total, the municipality may prohibit additional community living arrangements from locating in the municipality. In any city of the 1st, 2nd, 3rd or 4th class, when the capacity of community living arrangements in an aldermanic district reaches 25 or one percent of the population, whichever is greater, of the district, the municipality may prohibit additional community living arrangements from being located within the district. Agents of a facility may apply for an exception to the requirements of this paragraph, and such exceptions may be granted at the discretion of the municipality.

(bm) A foster family home which is the primary domicile of a foster parent, which is for 4 or fewer children and which is licensed under s. 48.62 shall be a permitted use in all residential areas and is not subject to pars. (a) and (b) except that foster homes operated by corporations, child welfare agencies, churches, associations or public agencies shall be subject to pars. (a) and (b).

(c) In all cases where the community living arrangement has capacity for 8 or fewer persons being served by the program, meets the criteria listed in pars. (a) and (b), and is licensed, operated or permitted under the authority of the department of health and social services, that facility is entitled to locate in any residential zone, without being required to obtain special zoning permission except as provided in par. (i).

(d) In all cases where the community living arrangement has capacity for 9 to 15 persons being served by the program, meets the criteria listed in pars. (a) and (b), and is licensed, or operated or permitted under the authority of the department of health and social services, the facility is entitled to locate in any residential area except areas zoned exclusively for single-family or 2-family residences, except as provided in par. (i), but is entitled to apply for special zoning permission to locate in those areas. The local municipality may grant special zoning permission at its discretion and shall make a procedure available to enable such facilities to request such permission.

(e) In all cases where the community living arrangement has capacity for serving 16 or more persons, meets the criteria listed in pars. (a) and (b), and is licensed, operated or permitted under the authority of the department of health and social services, that facility is entitled to apply for special zoning permission to locate in areas zoned for residential use. The local municipality may grant special zoning permission at its discretion and shall make a procedure available to enable such facilities to request such permission.

(f) The department of health and social services shall designate a single subunit within the department to maintain appropriate records indicating the location and the capacity of each community living arrangement, and such information shall be available to the public.

(g) In this subsection, "special zoning permission" includes but is not limited to the following: special exception, special permit, conditional use, zoning variance, conditional permit and words of similar intent.

(h) The attorney general shall take all necessary action, upon the request of the department of health and social services, to enforce compliance with this subsection.

(i) Not less than 11 months nor more than 13 months after the first licensure of a community living arrangement and every year thereafter, the common council, town board or village board of a city, town or village in which a community living arrangement is located may make a determination as to the effect of the community living arrangement on the health, safety or welfare of the residents of the city, town or village. The determination shall be made according to the procedures provided under par. (j). If the common council, town board or village board determines that a community living arrangement's existence in the city, town or village poses a threat to the health, safety or welfare of the residents of the city, town or village, the common council, town board or village board may order the community living arrangement to cease operation unless special zoning permission is obtained. The order is subject to judicial review under s. 68.13, except that a free copy of the transcript may not be provided to the community living arrangement. The community living arrangement shall cease operation within 90 days after the date of the order, or the date of final judicial review of the order, or the date of the denial of special zoning permission, whichever is later.

(j) A determination under par. (i) shall be made after a hearing before the common council, town board or village board. The city, town or village shall provide at least 30 days' notice to the community living arrangement that such a hearing will be held. At the hearing, the community living arrangement may be represented by counsel and may present evidence and call and examine witnesses and cross-examine other witnesses called. The common council, town board or village board may call witnesses and may issue subpoenas. All witnesses shall be sworn by the common council, town board or village board. The common council, town board or village board shall take notes of the testimony and shall mark and preserve all exhibits. The common council, town board or village board

**59.97 COUNTIES**

may, and upon request of the community living arrangement shall, cause the proceedings to be taken by a stenographer or by a recording device, the expense thereof to be paid by the city, town or village. Within 20 days after the hearing, the common council, town board or village board shall mail or deliver to the community living arrangement its written determination stating the reasons therefor. The determination shall be a final determination.

**History:** 1971 c. 40 s. 93; 1971 c. 86, 224; 1973 c. 274; 1977 c. 205; 1979 c. 233 ss. 2 to 5, 7 and 8; 1979 c. 323.

A zoning ordinance may distinguish between foster homes and therapeutic homes for the care of children. *Browndale International v. Board of Adjustment*, 60 W (2d) 182, 208 NW (2d) 121.

Plaintiff is not required to exhaust administrative remedies when his claim is that a zoning ordinance is unconstitutional; he may ask for a declaratory judgment. An ordinance classifying land as agricultural when it is unfit for agriculture is unreasonable and amounts to a taking of the land without compensation. *Kmicic v. Town of Spider Lake*, 60 W (2d) 640, 211 NW (2d) 471.

A property owner does not acquire a "vested interest" in the continuance of a nonconforming use, and such status will be denied if the specific use was casual and occasional, or if such a use was merely accessory or incidental to the principal use. *Walworth County v. Hartwell*, 62 W (2d) 57, 214 NW (2d) 288.

Under (5) (c), a county zoning ordinance becomes effective in a town upon approval of the text by the town board and the filing of the approving resolution with the town clerk and not when it merely adopts a zoning map. *Racine County v. Alby*, 65 W (2d) 574, 223 NW (2d) 438.

Zoning ordinances, being in derogation of common law, are to be construed in favor of free use of private property. *Cohen v. Dane Co. Bd. of Adjustment*, 74 W (2d) 87, 246 NW (2d) 112.

See note to 144.445, citing *Nelson v. DNR*, 88 W (2d) 1, 276 NW (2d) 302 (Ct. App. 1979).

Municipality is not required to show irreparable injury before obtaining injunction under (11). *County of Columbia v. Bylewski*, 94 W (2d) 153, 288 NW (2d) 129 (1980).

The fact that a county is within a regional planning commission does not affect county zoning power. 61 Atty. Gen. 220.

Authority of a county to regulate house trailers or mobile homes under this section, and other zoning questions discussed. 62 Atty. Gen. 292.

See note to 62.23, citing 63 Atty. Gen. 34.

Under (5) (c), town board approval of a comprehensive county zoning ordinance must extend to such ordinance in its entirety and may not extend only to parts of such ordinance. 63 Atty. Gen. 199.

County which has enacted countywide comprehensive zoning ordinance under this section may not authorize withdrawal of town approval of the ordinance or exclude any town from the ordinance. 67 Atty. Gen. 197.

Effect of 91.73 (4) on procedures to amend county comprehensive zoning ordinance under 59.97 (5) (e) discussed. 67 Atty. Gen. 290.

**59.971 Zoning of shorelands on navigable waters.** (1) To effect the purposes of s. 144.26 and to promote the public health, safety and general welfare, counties may by ordinance, which may be enacted separately from ordinances under s. 59.97, zone all lands (referred to herein as shorelands) in their unincorporated areas within the following distances from the normal high-water elevation of navigable waters as defined in s. 144.26 (2) (d): 1,000 feet from a lake, pond or flowage; 300 feet from a river or stream or to the landward side of the flood plain, whichever distance is greater. If the navigable

water is a glacial pothole lake, the distance shall be measured from the high watermark thereof.

(2) (a) Except as otherwise specified, all provisions of s. 59.97 apply to ordinances and their amendments enacted under this section whether or not enacted separately from ordinances enacted under s. 59.97, but the ordinances and amendments shall not require approval or be subject to disapproval by any town or town board.

(b) If an existing town ordinance relating to shorelands is more restrictive than an ordinance later enacted under this section affecting the same shorelands, it continues as a town ordinance in all respects to the extent of the greater restrictions, but not otherwise.

(c) Ordinances enacted under this section shall accord and be consistent with any comprehensive zoning plan or general zoning ordinance applicable to the enacting counties, so far as practicable.

(3) All powers granted to a county under s. 236.45 may be exercised by it with respect to shorelands, but it must have or provide a planning agency as defined in s. 236.02 (1).

(4) (a) Section 66.30 applies to this section, except that for the purposes of this section any agreement under s. 66.30 shall be effected by ordinance. If the municipalities as defined in s. 144.26 are served by a regional planning commission under s. 66.945, the commission may, with its consent, be empowered by the ordinance of agreement to administer each ordinance enacted hereunder throughout its enacting municipality, whether or not the area otherwise served by the commission includes all of that municipality.

(b) Variances and appeals regarding shorelands within a county are for the board of adjustment for that county under s. 59.99, and the procedures of that section apply.

(5) An ordinance enacted under this section supersedes all provisions of an ordinance enacted under s. 59.97 that relate to shorelands.

(6) If any county does not adopt an ordinance by January 1, 1968, or if the department of natural resources, after notice and hearing, determines that a county has adopted an ordinance which fails to meet reasonable minimum standards in accomplishing the shoreland protection objectives of s. 144.26 (1), the department of natural resources shall adopt such an ordinance. As far as possible, s. 87.30 shall apply to this subsection.

**History:** 1979 c. 233.

See note to art. 1, sec. 13, citing *Just v. Marinette County*, 56 W (2d) 7, 201 NW (2d) 761.

County floodplain zoning ordinances may be adopted under 59.971 and do not require the approval of town boards in order to become effective within the unincorporated areas of the county. 62 Atty. Gen. 264.

Counties may zone lands located within 300 feet of an artificial ditch that is navigable in fact 63 Atty. Gen. 57.

County shoreland zoning of unincorporated areas adopted under 59.971 is not superseded by municipal extraterritorial zoning under 62.23 (7a). Sections 59.971, 62.23 (7), (7a) and 144.26 discussed. Municipal extraterritorial zoning within shorelands is effective insofar as it is consistent with, or more restrictive than, the county shoreland zoning regulations. 63 Atty. Gen. 69

The necessity of zoning variance or amendments notice to the Wisconsin department of natural resources under the shoreland zoning and navigable waters protection acts. Whipple, 57 MLR 25

### **59.99 County zoning, adjustment board.**

**(1) APPOINTMENT, POWER.** The county board may provide for the appointment of a board of adjustment, and in the regulations and restrictions adopted pursuant to s. 59.97 may provide that such board of adjustment may, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the ordinance in harmony with its general purpose and intent and in accordance with general or specific rules therein contained. Nothing in this subsection shall preclude the granting of special exceptions by the county zoning agency designated under s. 59.97 (2) (a) or the county board in accordance with regulations and restrictions adopted pursuant to s. 59.97 which were in effect on July 7, 1973 or adopted after that date.

**(2) PERSONNEL.** (a) In counties having a population of less than 500,000, the board of adjustment shall consist of not more than 5 members as determined by resolution of the county board. The chairman of the county board shall appoint the members with the approval of the county board for terms of 3 years beginning July 1. The incumbent members shall continue to serve until their terms expire. The county board resolution increasing the size of the board of adjustment shall indicate how many members shall be appointed for 1, 2 and 3 years prior to July 1 of the year in which the change takes effect in making the first appointments. If the county board, by resolution, determines to reduce the membership of the board of adjustment below 5 but not less than 3, one of the positions for which the term expires as determined by lot shall not be filled each year until the requisite number of positions has been reached.

(b) In counties having a population of 500,000 or more, the board of adjustment shall consist of 3 members who are residents of the county, elected by the county board for terms of 1, 2 and 3 years, respectively, and until their successors are elected and qualify.

(c) The members of the board shall all reside within the county and outside of the limits of incorporated cities and villages; provided, however, that no 2 members shall reside in the same

town. The board shall choose its own chairman. Office room shall be provided by the county board, and the actual and necessary expenses incurred by the board in the performance of its duties shall be paid and allowed as in cases of other claims against the county. The county board may likewise compensate the members of said board and such assistants as may be authorized by said county board. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

**(3) RULES, MEETINGS, MINUTES.** The county board shall adopt rules for the conduct of the business of said board of adjustment, in accordance with the provisions of any ordinance or ordinances adopted pursuant to s. 59.97. The board of adjustment may adopt further rules as necessary to carry into effect the regulations of the county board. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

**(4) APPEALS TO BOARD.** Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of the building inspector or other administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

**(5) STAYS.** An appeal shall stay all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken shall certify to the board of adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the board of adjustment or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown.

**(6) HEARING APPEALS.** The board of adjustment shall fix a reasonable time for the hearing of the appeal and publish a class 2 notice thereof under ch. 985, as well as give due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or attorney.

**(7) POWERS OF BOARD.** The board of adjustment shall have the following powers:

(a) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of s. 59.97 or of any ordinance adopted pursuant thereto.

(b) To hear and decide special exceptions to the terms of the ordinance upon which such board is required to pass under such ordinance.

(c) To authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.

**(8) ORDER ON APPEAL.** In exercising the above-mentioned powers such board may, in conformity with the provisions of this section, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

**(9) MAJORITY RULE.** The concurring vote of a majority of the board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance, or to effect any variation in such ordinance.

**(10) COURT REVIEW.** Any person or persons, jointly or severally, aggrieved by any decision of the board of adjustment, or any taxpayer, or any officer, department, board or bureau of the municipality, may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of illegality. Such petition shall be presented to the court within thirty days after the filing of the decision in the office of the board.

**(11) CERTIORARI.** Upon the presentation of such petition the court may allow a writ of certiorari directed to the board of adjustment to review such decision of the board of adjustment, and shall prescribe therein the time within

which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

**(12) RETURN TO WRIT.** The board of adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

**(13) COURT DECISION.** If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

**(14) COSTS.** Costs shall not be allowed against the board unless it shall appear to the court that it acted with gross negligence, or in bad faith, or with malice in making the decision appealed from. All issues in any proceeding under this section shall have preference over all other civil actions and proceedings.

**History:** 1973 c. 60, 336.

Under (13) the court may take additional evidence and base its judgment, at least in part, on this evidence. *Browdale International v. Board of Adjustment*, 60 W (2d) 182, 208 NW (2d) 121.

"Unnecessary hardship" under (7) (c) means "practical difficulties". Grounds for variances discussed. *Snyder v. Waukesha County Zoning Bd* 74 W (2d) 468, 247 NW (2d) 98.

City or village residents are not eligible for service on county zoning board of adjustment. 61 Atty. Gen. 262.

A self-created or self-imposed hardship does not constitute an unnecessary hardship for which a county zoning board of adjustment may grant a variance, under the provisions of (7) (c). 62 Atty. Gen. 111.

Extent to which this section authorizes county board of adjustment to grant zoning variances and review decisions of county planning and zoning committee discussed. OAG 40-80.

The necessity of zoning variance or amendments notice to the Wisconsin department of natural resources under the shoreland zoning and navigable waters protection acts. *Whipple*, 57 MLR 25.

**59.997 Consolidation of counties; procedure; referendum.** (1) Any two or more adjoining counties in the state may consolidate into a single county by complying with the requirements and procedure herein specified.

(2) The county boards of commissioners or county boards of supervisors of any two or more

adjoining counties desiring to consolidate their respective counties into a single county may enter into a joint agreement for the consolidation of such counties, setting forth in such consolidation agreement:

(a) First, the names of the several counties which they propose to be consolidated;

(b) Second, the name under which it is proposed to consolidate the said counties, which name shall be such as to distinguish it from the name of any other county in Wisconsin, other than the consolidating counties;

(c) Third, the property, real and personal, belonging to each county, and the fair value thereof in current money of the United States;

(d) Fourth, the indebtedness, bonded and otherwise, of each county;

(e) Fifth, the proposed name and location of the county seat of the consolidated county;

(f) Sixth, if the said counties have different forms of county organization and government, the proposed form of county organization and government of the consolidated county;

(g) And seventh, the terms of agreement.

(3) The county board of commissioners or county board of supervisors of each of the said counties may appoint an advisory committee composed of three persons to assist the said board in the preparation of such agreement.

(4) The original of the consolidation agreement, together with a petition on behalf of the several county boards of commissioners or county boards of supervisors, signed by the chairman of each of said boards, asking that a referendum on the question of consolidation of the several counties be ordered, shall be filed with the clerk of the circuit court of one of such counties and a copy of such consolidation agreement and of the petition shall be filed with the clerk of the circuit court of each of the other such counties.

(5) The qualified electors of each county involved in the consolidation proposal whose county board of commissioners or county board of supervisors has not taken the initiative under sub. (2) may, by filing with the county board of commissioners or county board of supervisors of the said county a petition, signed by not less than twenty per centum of the qualified electors of said county, based on the total vote cast for governor at the last general election, asking the said board to effect, in accordance with sub. (2), a consolidation agreement with such county or counties as shall be named in the said petition, and asking for a referendum on the said question, require the said board to so proceed. A copy of the petition of the electors shall also be filed with the clerk of the circuit court of the

county. If the said county board of commissioners or county board of supervisors is able within six months thereafter to effect such consolidation agreement, the procedure shall be the same as hereinbefore set forth. If the said board within the said period of time is unable or for any reason fails to perfect such consolidation agreement, then the judge of the circuit court of the said county shall appoint a committee of five representative citizens of the county, to act for and in lieu of the said county board of commissioners or county board of supervisors in perfecting the said consolidation agreement and in petitioning for a referendum.

(6) The county board of commissioners or county board of supervisors shall cause a copy of the consolidation agreement thereafter to be published in each county as a class 1 notice, under ch. 985.

(7) When the publication of the said consolidation agreement in each of the said counties is completed, of which the certificate to the judge of the circuit court of the said counties from the owner-editor or manager of each newspaper publishing the same shall be proof, the judge or judges of the circuit courts of the said counties shall, by order entered of record in each of such counties, require the several county clerks of the counties included in the consolidation agreement to submit such question to a vote of the qualified electors of such counties at the next election to be held on the first Tuesday in April, or the next regular election, or at a special election to be held on the day fixed in said order, which day shall be the same in each of the counties proposing to consolidate. A copy of said order shall be filed with the county clerk of each of such counties. If such question is submitted at a special election, it shall be held not less than thirty days nor more than sixty days from the completion of the consolidation agreement, but not within sixty days of any April or general election.

(8) The county clerk shall notice such election as other elections. The ballots shall be provided by the county clerk and shall be in substantially the following form:

#### OFFICIAL REFERENDUM BALLOT

If you desire to vote for the consolidation of (insert names of counties proposing to consolidate) counties pursuant to consolidation agreement, make a cross (X) or other mark in the square after the word "Yes," underneath the question; if you desire to vote against consolidation, make a cross (X) or other mark in the square after the word "No," underneath the question.

Shall (here insert names of counties proposing to consolidate) counties consolidate pursuant to consolidation agreement?

YES  NO

(9) The ballot shall have on the back or reverse side thereof the endorsements provided by law for ballots for general elections and shall be marked, punched or labeled by the elector and counted and canvassed as other ballots cast on questions in the county are counted and canvassed. The election shall be conducted by the same officers and in the same manner as are other elections in the county. The results of the election shall be certified to the judge or judges of the circuit court for the counties.

(10) If a majority of the votes cast in each county upon such questions are in favor of the consolidation of such counties, the judge or judges of said circuit court shall enter such fact of record in each such county. If in any one of such counties less than a majority of the votes cast upon such question are in favor of the proposed consolidation, said consolidation shall be declared to have failed for all purposes. If a majority of the votes cast upon such question in any county are opposed to consolidation, the question of consolidation shall not be again submitted to the electors of such county for a period of two years.

(11) At the next succeeding regular November election, held at least 60 days after the election at which consolidation is approved by the voters, there shall be elected for the consolidated county all county officers provided for by law and the officers shall be nominated as provided in ch. 6. Their terms shall begin on the first Monday of January next succeeding their election, at which time they shall replace all elective county officers of the counties consolidated into the consolidated county whose terms shall on that day terminate. All appointive county officers shall be appointed by the person, board or authority upon whom the power to appoint such officers in other counties is conferred. The terms of the officers shall commence on the first Monday of January next succeeding the first election of officers for the consolidated county, and shall continue, unless otherwise removed, until their successors have been appointed and qualified. The successors of all such officers whose first election or appointment is provided for in this subsection shall thereafter be elected or appointed at the time, in the manner and for the terms provided by law.

(13) Upon the first Monday of January following the first election of county officers for the consolidated county, the several counties shall thereafter for all purposes be treated and considered as one county, under the name and

upon the terms and conditions set forth in the said consolidation agreement; and all rights, privileges, and franchises of each of the said several counties, and all records, books, and documents, and all property, real and personal, and all debts due on whatever account, as well as other things in action, belonging to each of such counties, shall be deemed as transferred to and vested in the said consolidated county, without further act or deed. All property, all rights of way, and all and every other interest shall be as effectually the property of the consolidated county as they were of the several counties prior to said consolidation; and the title to real estate, either by deed or otherwise, under the laws of this state vested in any of the said counties, shall not be deemed to revert or be in any way impaired by reason of this consolidation; but the rights of creditors and all liens upon the property of any of the said counties shall be preserved unimpaired; and the respective counties shall be deemed to continue in existence to preserve the same and all debts, liabilities and duties of any of the said counties shall henceforth attach to said consolidated county and be enforced against it to the same extent as if the said debts, liabilities and duties had been incurred or contracted by it, unless by the terms of said agreement the outstanding bonded indebtedness of the said counties shall not be transferred and attached to said consolidated county, but shall remain as obligations of the said counties which for such purpose shall be deemed to continue in existence.

(14) Suits may be brought and maintained against such consolidated county in any of the courts of this state in the same manner as against any other county. Any action or proceeding pending by or against either of the counties consolidated may be prosecuted to judgment as if such consolidation had not taken place; or the consolidated county may be substituted in its place. The townships, school districts, election districts and voting places in the consolidated county shall continue as in the several counties prior to consolidation, unless and until changed in accordance with law.

(15) Until changed by law, the same circuit courts shall continue, though it may result in the consolidated county being a part of two or more circuits. All such courts shall, however, be held at the place designated as the county seat of the consolidated county, and each such court and the judge thereof shall continue to have and exercise the same jurisdiction as it or he had and exercised before such consolidation. If two or more judges have jurisdiction in any consolidated county they or a majority of them shall exercise the power to appoint officers and fill

vacancies as is vested in judges of circuit courts of other counties.

**(16)** For the purpose of representation in congress and in the legislature the existing congressional, senatorial and assembly districts shall continue until changed in accordance with law. Such consolidated county shall in all respects, except as otherwise provided herein, be

subject to all the obligations and liabilities imposed, and shall possess all the rights, powers and privileges vested by law in other counties.

**(17)** The provisions of this section shall be deemed cumulative and the authority herein granted to counties shall not be limited or made inoperative by any existing statute.

**History:** 1977 c. 449; 1979 c. 311