

161.54 History: 1969 c. 463; Stats. 1969 s. 161.54.

161.60 History: 1969 c. 384; Stats. 1969 s. 161.60.

161.61 History: 1969 c. 384; Stats. 1969 s. 161.61.

161.62 History: 1969 c. 384; Stats. 1969 s. 161.62.

161.63 History: 1969 c. 384; Stats. 1969 s. 161.63.

161.64 History: 1969 c. 384; Stats. 1969 s. 161.64.

161.65 History: 1969 c. 384; Stats. 1969 s. 161.65.

CHAPTER 162.

Pure Drinking Water.

162.01 History: 1935 c. 434, 553; Stats. 1935 s. 162.01; 1953 c. 596; 1955 c. 221 s. 50; 1965 c. 614 s. 57 (1); 1969 c. 276 s. 588 (6).

162.02 History: 1935 c. 434, 553; Stats. 1935 s. 162.02; 1953 c. 596; 1965 c. 614 s. 57 (1); 1969 c. 276 s. 588 (6).

162.03 History: 1935 c. 434, 553; Stats. 1935 s. 162.03; 1953 c. 596; 1965 c. 614 s. 57 (1); 1969 c. 276 s. 603 (5); 1969 c. 336 s. 176.

Acts of the examiner who conducted the hearing, in examining witnesses on occasion and going into some collateral issues not, however, included in the findings of the state board of health and not affecting the result, and in counseling with the assistant attorney general appearing on behalf of the board, were not prejudicial to the defendant and did not result in a denial of due process. Because certain findings of the board, not supported by the evidence, may have influenced the board in fixing the period of suspension provided for in its order, the matter is returned to the board for further consideration. *Gray Well Drilling Co. v. State Board of Health*, 263 W 417, 58 NW (2d) 64.

In a proceeding by the board on its own motion to suspend or revoke a well-drilling permit, as provided by 162.03 (2), neither the statutes nor the rules of the board require that the complaint be verified. The lack of provision for the filing of a demurrer was not prejudicial to the defendant and did not result in a denial of due process, since the allegations of the demurrer which the defendant attempted to file were repeated in its answer and all of the issues raised thereby were considered and preserved in the record. *Gray Well Drilling Co. v. State Board of Health*, 263 W 417, 58 NW (2d) 64.

162.04 History: 1935 c. 434, 553; Stats. 1935 s. 162.04; 1949 c. 555; 1953 c. 596; 1957 c. 546; 1965 c. 614 s. 57 (1).

Some of the law applicable to well-drilling contracts is stated in *Borg v. Downing*, 221 W 463, 266 NW 182.

One who drills wells on his own land for the use of lessees is not so engaged in the well-drilling industry as to be subject to 162.04.

One who contracts to construct for compensation is not subject to this section, where he sublets actual performance of work to a registered well driller, providing the contractor has not advertised or held himself out as a well driller. 27 Atty. Gen. 218.

Licensed plumbers are not exempt from the provisions in regard to pump installers. 42 Atty. Gen. 309.

Where an unregistered foreign corporation assumes the obligation to drill a water supply well by contract procured from a municipality by low bid, and proposes to assign said contract to another registered well driller for a valuable consideration, said corporation has "engaged in the industry of well drilling" within the meaning of that term as used in 162.04 (4). Further, the foreign corporation "held itself out" as a well driller in violation of 162.06. Validity of the assignment is a question of law for the legal advisor of the municipality. The sole concern of the state board of health is that the person which actually does the work has complied with 162.04. 44 Atty. Gen. 279.

162.047 History: 1935 c. 434, 553; Stats. 1935 s. 162.04 (4); 1953 c. 596 s. 11; Stats. 1953 s. 162.04 (5); 1957 c. 546 s. 3; Stats. 1957 s. 162.047.

162.05 History: 1935 c. 434, 553; Stats. 1935 s. 162.05; 1953 c. 596; 1965 c. 614 s. 57 (1).

162.06 History: 1935 c. 434, 553; Stats. 1935 s. 162.06; 1953 c. 596.

See note to sec. 6, art. I, on cruel punishments, citing 26 Atty. Gen. 15.

CHAPTER 164.

Uniform Machine Gun Act.

Editor's Note: For foreign decisions construing the "Uniform Machine Gun Act" consult Uniform Laws, Annotated.

164.01 History: 1933 c. 76 s. 1; Stats. 1933 s. 164.01.

164.02 History: 1933 c. 76 s. 1; Stats. 1933 s. 164.02.

164.03 History: 1933 c. 76 s. 1; Stats. 1933 s. 164.03.

164.04 History: 1933 c. 76 s. 1; Stats. 1933 s. 164.04.

164.05 History: 1933 c. 76 s. 1; Stats. 1933 s. 164.05.

164.06 History: 1933 c. 76 s. 1; Stats. 1933 s. 164.06.

164.07 History: 1933 c. 76 s. 1; Stats. 1933 s. 164.07.

164.08 History: 1933 c. 76 s. 1; Stats. 1933 s. 164.08.

164.09 History: 1933 c. 76 s. 1; Stats. 1933 s. 164.09.

164.11 History: 1933 c. 76 s. 1; Stats. 1933 s. 164.11.

164.20 History: 1933 c. 359; Stats. 1933 s. 164.20.

The sale, possession, use or transportation within Wisconsin by unauthorized persons of aerosol or nonpressurized spray devices intended for personal self-protection, which achieve their effectiveness by causing sufficient bodily discomfort to render a potential assailant harmless, is prohibited. 57 Atty. Gen. 10.

CHAPTER 165.

Department of Justice.

165.015 History: Stats. 1967 s. 14.53 (4), (5), (5a), (9), (10), (11); 1969 c. 259 s. 21; 1969 c. 276 ss. 47, 481; Stats. 1969 s. 165.015.

On examination of municipal bonds see notes to 67.02; on representation of the state in workmen's compensation cases see note to 102.62; and on restraining unauthorized transactions see notes to 268.02.

It is the duty of the attorney general to defend an action against the school land commissioners in their official capacity. *Orton v. State*, 12 W 510.

Where requested to do so by the governor it is the duty of the attorney general to assist in the prosecution of a criminal case in the trial court. *Emery v. State*, 101 W 627, 78 NW 145.

An action in the circuit court to enjoin the continuance of a public nuisance must be instituted by the proper law officer of the state, and that court has no power to authorize a private relator to act as such officer. *State ex rel. Hartung v. Milwaukee*, 102 W 509, 78 NW 756.

The policy which precludes a nonofficial attorney from appearing for the state in a criminal case, except by special appointment, does not apply to habeas corpus proceedings. He may appear on the side of the state by request of the proper officer, but not at public expense. *State ex rel. Durner v. Huegin*, 110 W 189, 85 NW 1046.

The attorney general can interfere on behalf of the state only when authorized by statute. *State v. Milwaukee E. R. & L. Co.* 136 W 179, 116 NW 900; *State ex rel. Haven v. Sayle*, 168 W 159, 169 NW 310.

The attorney general has no common-law powers or duties. He must find his authority in the statutes when he sues in the circuit court in the name of the state or in his official capacity. *State v. Snyder*, 172 W 415, 179 NW 579.

Where the pleadings and record do not show that the attorney general was authorized to prosecute a claim under 14.53, Stats. 1927, to recover a sum of money, the state may not counterclaim for the sum. *Clas v. State*, 196 W 430, 220 NW 185.

See note to 990.001, citing *Union F. H. S. Dist. v. Union F. H. S. Dist.* 216 W 102, 256 NW 788.

No conflict will arise in discharge of duties of the attorney general from his advising both the civil service commission and the secretary of state on questions relative to removal of a state employe. The civil service commission is not a court authorized to determine disputed questions of fact. 13 Atty. Gen. 175.

It is not the duty of the attorney general to examine proceedings preliminary to issuance

of public utility mortgage bonds or certificates issued by municipalities under provisions of municipal law. 14 Atty. Gen. 499.

The attorney general should avoid advising unofficially with reference to matters administered by another department of the state. 20 Atty. Gen. 378.

The attorney general does not render opinions upon questions involved in litigation. 24 Atty. Gen. 115.

Requests for opinions of the attorney general made under 14.53 (4), Stats. 1949, should be confined to questions involving the state superintendent's powers and duties when a present necessity for action is combined with an ambiguity in the law requiring clarification by interpretation or construction. 39 Atty. Gen. 41.

165.055 History: 1857 c. 101; R. S. 1858 c. 10 s. 58; R. S. 1878 s. 162; 1887 c. 300; Ann. Stats. 1889 s. 162; 1897 c. 355; Stats. 1898 s. 162; 1907 c. 500; 1913 c. 627; 1913 c. 772 s. 6; 1913 c. 773 s. 91; 1917 c. 622 s. 48; Stats. 1917 s. 14.52; 1965 c. 279; 1969 c. 276 s. 43; Stats. 1969 s.165.055.

165.065 History: 1947 c. 421; Stats. 1947 s. 14.525; 1959 c. 599; 1965 c. 66 s. 8; 1969 c. 276 s. 43; Stats. 1969 s. 165.065.

165.07 History: 1969 c. 276 s. 485; Stats. 1969 s. 165.07.

165.08 History: 1923 c. 240; Stats. 1923 s. 14.531; 1965 c. 66 s. 9; 1969 c. 276 s. 48; Stats. 1969 s. 165.08.

165.09 History: 1959 c. 64; Stats. 1959 s. 14.53 (13); 1969 c. 276 s. 47; Stats. 1969 s. 165.09.

165.10 History: 1969 c. 384; Stats. 1969 s. 165.10.

165.25 History: Stats. 1967 s. 14.53 (1), (2), (3), (5m), (6), (8), (12); 1969 c. 158 s. 3; 1969 c. 252 s. 7; 1969 c. 276 ss. 46, 486, 487, 619 (1); Stats. 1969 s. 165.25.

Where the attorney general upon request of the state treasurer refuses to commence an action upon a bond given by a state depository, private counsel may be employed to prosecute the action in the name of the state. *State v. Pederson*, 135 W 31, 114 NW 828.

In an action on the bond of a state treasurer where it was alleged that certain creditors of a trust company have been injured by the wrongful surrender of securities by such treasurer, the state treasurer could request the attorney general to bring such an action or if he refused so to do, the creditors could bring an action themselves using the name of the state. *State ex rel. Sheldon v. Dahl*, 150 W 73, 135 NW 474.

In a mandamus action brought by the attorney general in his own name, in his official capacity, on behalf of the state, to compel the state treasurer to honor warrants for the payment of salary of the president of the University of Wisconsin, the failure to allege in the petition that the attorney general was duly authorized by the governor under 14.53 (1), Stats. 1939, to bring the action was a defect relating to a matter of pleading, not a matter of substantive law, and the defect was waived by the defendant's failure to raise the ques-