

**32.19 History:** 1961 c. 486; Stats. 1961 s. 32.19; 1969 c. 409.

See note to 32.09, citing *Richards v. State*, 14 W (2d) 597, 111 NW (2d) 505.

See note to sec. 1, art. I, on limitations imposed by the Fourteenth Amendment, citing *Hanley v. Volpe*, 305 F Supp. 977.

Claims for cost of moving of property, necessitated by a taking of land by a public or private body having the power of eminent domain, may be paid in cases where a former landowner performs the work himself. 51 Atty. Gen. 166.

**32.20 History:** 1961 c. 486; Stats. 1961 s. 32.20; 1969 c. 500 s. 30 (2) (e).

**32.21 History:** 1961 c. 486; Stats. 1961 s. 32.21.

**32.25 History:** 1969 c. 409; Stats. 1969 s. 32.25.

**32.26 History:** 1969 c. 409; Stats. 1969 s. 32.26.

**32.27 History:** 1969 c. 409; Stats. 1969 s. 32.27.

## CHAPTER 34.

### Public Deposits.

**34.01 History:** Spl. S. 1931 c. 1 s. 2; 1933 c. 435 s. 2; Stats. 1933 s. 34.01; 1935 c. 55, 222, 438; 1937 c. 210; 1947 c. 411 s. 11(220.02(5)); 1951 c. 511 s. 47; 1953 c. 341; 1961 c. 507; 1969 c. 276 ss. 592 (7), 598 (1).

Moneys of the Milwaukee policemen's annuity and benefit fund, when deposited in a designated depository bank by the city treasurer as custodian of such fund, are a "public deposit," within 34.01 (1) and are "public moneys," within 34.01 (5). *Tesch v. Board of Deposits*, 237 W 527, 297 NW 379.

Public officers receiving moneys by virtue of their offices come within the provisions of ch. 34, Stats. 1931, and are bound by and receive protection of said chapter. Moneys held in trust by the superintendent of the home for dependent children for benefit of wards of the home are public moneys and come within the provisions of ch. 34. Those designated by the county board are public depositories for clerks of court. 21 Atty. Gen. 127.

Funds distributed to local units of government or committees by the industrial commission are public deposits and are covered by ch. 34. 22 Atty. Gen. 180.

Reconstruction Finance Corporation moneys deposited by the governor or unemployment relief trustees are public deposits under ch. 34. 22 Atty. Gen. 319.

Deposits of state annuity and investment board are public deposits as defined in 34.01 (1). 29 Atty. Gen. 421.

Moneys deposited with the banking commission for specified purposes and which have been deposited as a special fund in the state treasury by the commission pursuant to 220.20 and 220.08 (13) and (14) constitute a "public deposit" and "public moneys" within the meaning of 34.01. 31 Atty. Gen. 191.

Where provisions of 62.13, relating to policemen's and firemen's pension funds in cities of second and third class are applicable to village by virtue of operation of 61.65, such funds are subject to ch. 34. 31 Atty. Gen. 381.

Funds withheld from employees under provisions of federal income tax law by the state treasurer or treasurer of municipality or other governmental subdivision of state, whether such funds are carried in separate tax account or as part of other public funds, are public moneys within meaning of 34.01 (5) and are subject to provisions of ch. 34. 32 Atty. Gen. 103.

Where the FDIC has ruled that pension funds are held by banks in a separate capacity from other funds of the city and are entitled to a separate insurance coverage by virtue of ch. 496, Laws 1939, providing that police and firemen have vested rights in such funds, and ch. 175, Laws 1943, making similar provision for other municipal employees, such funds are to be reported separately to the board of deposits from the dates of these enactments rather than from the date of the FDIC ruling based on these enactments. 33 Atty. Gen. 135.

Funds of the Milwaukee Mid-Summer Festival Corporation are not subject to the public deposits law. Funds of housing authorities created by a city under 66.40 are subject to ch. 34. 35 Atty. Gen. 58.

A Wisconsin "public depositor" cannot without violating the provisions of ch. 34 deposit "public funds" up to \$5,000 in an out-of-state bank. This is true (even though deposits in said bank up to that amount may be insured by the Federal Deposit Insurance Corporation and for that reason are by order of the board of deposits exempt from payment of premium into the state deposit fund) since 34.05 (1) and 34.01 (5) establish that every "public depositor" deposit all "public moneys" coming into the hands of the treasurer in a Wisconsin "public depository." 36 Atty. Gen. 181.

Alimony and dependent children payments received by a clerk of court and deposited in a public depository constitutes a public deposit and public moneys. 51 Atty. Gen. 40.

Moneys deposited with the motor vehicle commission under 344.20, placed in custody of state treasurer, are public moneys under 34.01 (5) and subject to placement by investment board under 25.17 (61). 51 Atty. Gen. 57.

**34.02 History:** 1969 c. 259; Stats. 1969 s. 34.02.

**34.026 History:** 1935 c. 394; Stats. 1935 s. 34.026; 1943 c. 275 s. 11; 1951 c. 511 s. 47; 1961 c. 507; 1969 c. 276 s. 592 (7).

**34.03 History:** 1935 c. 55 s. 1, 5; 1935 c. 222, 438, 477; Stats. 1935 s. 34.03; 1937 c. 210, 426; 1947 c. 270; 1947 c. 411 s. 11 (220.02(5)); 1951 c. 319 s. 200; 1951 c. 511 s. 20, 21, 47; 1951 c. 735 s. 3; 1957 c. 640; 1961 c. 507, 682; 1965 c. 433 s. 121; 1967 c. 29 s. 5; 1967 c. 291 s. 14; 1969 c. 276 s. 592 (7).

See note to sec. 1, art. IV, on delegation of power, citing *Tesch v. Board of Deposits*, 237 W 527, 297 NW 379.

See note to sec. 1, art. VIII, on the rule of taxation (general), citing *Tesch v. Board of Deposits*, 237 W 527, 297 NW 379.

The board of deposits may accept nonassessable capital stock of a newly organized national bank in lieu of part of its claim against an old bank. The board may not accept capital stock of a state bank which is subject to statutory assessment in lieu of part of its claim. 23 Atty. Gen. 50.

The board of deposits has authority to determine the minimum average daily balance which must be maintained to the credit of the state of Wisconsin in its working banks. 39 Atty. Gen. 247.

**34.04 History:** 1935 c. 55 s. 1, 5; 1943 c. 91; 1943 c. 375 s. 7; 1951 c. 511 s. 47; 1955 c. 221 s. 26, 27; 1957 c. 640; 1961 c. 507; 1965 c. 433 s. 121; 1967 c. 291 s. 14; 1969 c. 276 s. 592 (7).

**34.05 History:** Spl. S. 1931 c. 1 s. 2; Spl. S. 1931 c. 11; 1933 c. 435 s. 2, 3; Stats. 1933 s. 34.015, 34.05; 1935 c. 55, 394; Stats. 1935 s. 34.05; 1951 c. 511 s. 47; 1961 c. 507; 1967 c. 29 s. 1; 1969 c. 276 s. 592 (7).

34.05 (4), Stats. 1933, does not apply to funds sent to out-of-state banks for the purpose of meeting bond issues at maturity, even though funds must be sent prior to maturity date. 24 Atty. Gen. 373.

Money raised for the specific purpose of paying bonds by a county must be placed in public depository. 24 Atty. Gen. 644.

**34.06 History:** Spl. S. 1931 c. 1 s. 2; Spl. S. 1931 c. 11; 1933 c. 435 s. 2; Stats. 1933 s. 34.02; 1935 c. 55; Stats. 1935 s. 34.06.

The cashier of a state institution, having filed an official bond, is an insurer of public funds lawfully in his possession, and liability for losses occurring even without his fault is covered by such bond. 26 Atty. Gen. 328.

**34.07 History:** Spl. S. 1931 c. 1 s. 2; Stats. 1933 s. 34.06 (6); 1935 c. 55 s. 2; Stats. 1935 s. 34.07 (2); 1957 c. 640; Stats. 1957 s. 34.07.

**34.08 History:** Spl. S. 1931 c. 1 s. 2; 1933 c. 5; 1933 c. 435 s. 2; Stats. 1933 s. 34.06; 1935 c. 55, 184; Stats. 1935 s. 34.08; 1937 c. 122; 1939 c. 440; 1947 c. 9 s. 31; 1947 c. 469; 1951 c. 91, 319; 1951 c. 511 s. 47; 1955 c. 10, 332; 1957 c. 640; 1959 c. 659 s. 79; 1961 c. 507; 1965 c. 433 s. 121; 1967 c. 291 s. 14; 1969 c. 276 s. 592 (7).

Reconstruction Finance Corporation moneys deposited by the governor or unemployment relief trustees in a public depository which has failed to repay on demand constitute a valid claim against the state public deposit fund. Sums due the state public deposit fund under 34.08 (2) on such funds and similar funds should be paid by public depositors. 22 Atty. Gen. 488.

Tax money collected by the tax commission and deposited in various banks is classed as state money until distributed to counties, towns, cities and villages, for purposes of payment into the deposit funds, and insurance on this money payable to state deposit fund must be paid by the state treasurer out of the general fund. 23 Atty. Gen. 46.

Where a public depository assigns its claim against a defunct bank to the board of deposits and the closed bank repays 100% plus interest, such interest goes to the board and not to the depositor. 25 Atty. Gen. 313.

Municipal utility funds are separate and distinct from general funds of a municipality and are held by the municipality in a separate capacity and right within meaning of FDIC act and are each entitled to be treated as separately insured funds. 29 Atty. Gen. 407.

The board of deposits has no power to approve a claim or pay a loss under 34.08 (1)

for Wisconsin "public funds" deposited in an Illinois state bank irrespective of whether or not premiums due under ch. 34 are paid by the "public depositor" to the board. 36 Atty. Gen. 181.

Discontinuance and transfer of the balance of the segregated state deposit fund to the general fund does not contravene the constitution. 45 Atty. Gen. 227.

**34.09 History:** Spl. S. 1931 c. 1 s. 2; 1933 c. 435 s. 2; Stats. 1933 s. 34.07; 1935 c. 55; Stats. 1935 s. 34.09; 1951 c. 511 s. 47; 1961 c. 507; 1969 c. 276 s. 592 (7).

Where the state under 14.44, Stats. 1931, had intrusted bonds and coupons to a state depository "to collect and credit," and the depository, upon being credited by a subsequent collecting bank, had merely issued a certificate of deposit to itself without the knowledge or consent of the state, and shortly thereafter failed, the sureties on the depository bonds were not liable for such proceeds, since the depository thereby had become only a "debtor" and not a "depository" on account of such funds, and such funds had not become a "deposit" within the meaning of the depository bonds. State v. United States F. & G. Co. 215 W 91, 254 NW 130.

The board of deposits has no power under this section to approve an out-of-state bank as a depository for Wisconsin "public funds" even though the out-of-state bank and the Wisconsin public depositor involved are willing to comply with the provisions of chapter 34. 36 Atty. Gen. 181.

**34.095 History:** 1891 c. 273 s. 2; Stats. 1898 s. 160b; 1903 c. 233 s. 2; Supl. 1906 s. 160b; 1909 c. 534; 1917 c. 622 s. 41; Stats. 1917 s. 14.44; 1925 c. 449; 1929 c. 445 s. 2; 1929 c. 491 s. 3; Spl. S. 1931 c. 1 s. 1; 1969 c. 276 s. 41; Stats. 1969 s. 34.095.

**34.10 History:** 1933 c. 435 s. 3; Stats. 1933 s. 34.075; 1935 c. 55; Stats. 1935 s. 34.10; 1937 c. 284; 1947 c. 411 s. 11(220.02(5)); 1951 c. 511 s. 47; 1957 c. 640; 1961 c. 507; 1969 c. 276 s. 592 (7).

Bank stabilization. Murphy, 7 WLR 255.

**34.105 History:** 1951 c. 407; Stats. 1951 s. 34.105; 1953 c. 341.

**34.11 History:** 1935 c. 55; Stats. 1935 s. 34.11; 1961 c. 507; 1969 c. 276 s. 592 (7).

#### CHAPTER 35. Public Printing and the Distribution of Laws and Public Documents.

##### General Comment of Interim Committee on State Publications, 1959:

This bill [617, S] is the first comprehensive revision of ch. 35 of the statutes since 1931. It is the product of a study made by the interim subcommittee on state publications in accordance with amendment No. 1, S. to Jt. Res. No. 97, S., passed by the 1957 legislature.

Proposed changes in ch. 35 are intended to improve the printing processes of the state by the clarification of existing sections, the repeal of obsolete material, the strengthening of some sections, and the institution of stronger controls over state printing and distribution programs. These changes are designed to