

No. 221, S.]

[Published September 7, 1929.

CHAPTER 467.

AN ACT to amend section 85.25 of the statutes, relating to liability of insurer in automobile cases.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section 85.25 of the statutes, is amended to read: 85.25 Any bond or policy of insurance covering liability to others by reason of the operation of a motor vehicle shall be deemed and construed to contain the following conditions: That the insurer shall be liable to the persons entitled to recover for the death of any person, or for injury to person or property, *irrespective of whether such liability be in praesenti or contingent and to become fixed or certain by final judgment against the insured, when* caused by the negligent operation, maintenance, use or defective construction of the vehicle described therein, such liability not to exceed the amount named in said bond or policy.

SECTION 2. This act shall take effect upon passage and publication.

Approved September 5, 1929.

No. 672, A.]

[Published September 9, 1929.

CHAPTER 468.

AN ACT to repeal section 20.125, chapters 33 and 34, subsection (1) of section 35.02, and subsections (14) and (14a) of section 82.02; to create sections 15.001, 15.002, 15.26 to 15.40 and 15.76 to 15.82; and to amend subsections (3) and (4) of section 14.65, subsection (1) of section 14.71, the introductory paragraphs of section 20.10, 20.11, 20.12 and 35.03, subsection (1) of section 37.02 and subsections (1) and (2) of section 46.09 of the statutes, relating to an advisory council, a bureau of purchases and a bureau of engineering in the executive department, abolishing the office of the state superintendent of public property, the printing board, the state department of engineering and the cement purchasing commission, and making appropriations.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section 20.125, chapters 33 and 34, subsection (1)

of section 35.02, and subsections (14) and (14a) of section 82.02 of the statutes are repealed.

SECTION 2. Twenty-four new sections are added to the statutes to read: 15.001 (1) There is created within the executive department an advisory council, to be composed of the governor, the director of the budget, the director of purchases, the director of personnel, state chief engineer and such other officers as the governor may designate.

(2) The governor shall be the chairman and the director of the budget shall be the vice chairman of the advisory council. Said council shall meet at the call of the chairman and minutes shall be kept of all meetings.

15.002 The advisory council of the executive department shall have power and it shall be its duty:

(1) To assist the governor in all matters which he may refer to said council.

(2) To perform all other powers, duties and functions prescribed by law, and particularly in chapters 15 and 16.

(3) To assign each state officer entitled by law to be supplied with office room to a suitable room or rooms in the capitol so long as rooms for that purpose are available; and to approve of all leases of quarters made by the director of purchases pursuant to section 15.37. In assigning officers to rooms in the capitol, preference shall be given to those expressly entitled by law to such rooms over those not so expressly entitled to them. All assignments of rooms to state officers in effect immediately prior to the taking effect of this section shall remain in effect until altered by the advisory council pursuant to law.

15.26 As used in sections 15.26 to 15.40 the following terms shall mean:

(1) The term "office" includes both houses of the legislature and any department, board, commission or body connected with the state government, including all educational, charitable, correctional, penal and other state institutions.

(2) The term "officer" includes each requisitioning officer of the legislature and the person or persons at the head of any such department, board, institution, commission or body, by whatever title any such person or persons may be elsewhere designated.

(3) The words "permanent personal property" include furniture and furnishings, typewriters, calculating, numbering and

adding machines, apparatus, library and other books, motor vehicles, machinery and equipment, and any and all property which in the opinion of the director of purchases will have a life of more than one year.

(4) The words "contractual services" include gas, electricity, steam, telephone, telegraph, freight, express, drayage, towels, drinking water, postage, printing, binding and similar services.

15.27 (1) There is created within the executive department a bureau of purchases, in charge of the director of purchases, who shall be appointed by the governor subject to chapter 16. The person holding the position of superintendent of public property at the time of the taking effect of this section shall be eligible to qualify for the position of director of purchases by filing his history of employment with the director of personnel.

(2) Such director shall devote full time to his duties and shall have no other office or employment. He shall furnish a bond for the faithful performance of his duties and the delivery to his successor of any or all records and property belonging to his office in such sum and with such sureties as the governor may require and approve, and the cost of such bond shall be charged to the appropriation of said bureau. Such director shall be paid such salary as may be fixed by the governor, within the salary ranges for the position established pursuant to law.

15.28 The director of purchases shall have the full power and authority and is hereby directed to purchase and may, subject to the approval of the advisory council, delegate to special designated agents the authority to purchase:

(1) All necessary materials, supplies, paper, coal, fuel, stationery, apparatus, furniture, equipment, all other permanent personal property and miscellaneous capital, and contractual services and all other expense of a consumable nature for all state offices. All such materials, services and other things and expense furnished to any such office shall be charged to the proper appropriations of the offices to whom furnished, as provided in section 20.10 of the statutes.

(2) Cement, machinery and other materials and supplies needed for the improvement or maintenance of highways and streets paid for in whole or in part with state funds. The officials of any town, village, city or county shall upon application to the director of purchases be given information as to prices

on any items mentioned in this subsection which are to be used on public works and paid for in whole or in part by public funds.

(3) All mimeograph, multigraph and similar work, except for offices which may be permitted by the advisory council to do their own mimeograph and multigraph work.

15.29 (1) The director of purchases shall check or have checked, as to quantity and quality, the delivery of all purchases.

(2) The director of purchases shall prepare standard specifications, as far as possible, for all state purchases. By "standard specifications", is meant a specification, either chemical or physical or both, prepared to describe in detail the article which the state desires to purchase, and trade names shall not be used. On the formulation, adoption and modification of any standard specifications, the director of purchases shall also seek and be accorded without cost, the assistance, advice and co-operation of other state offices and officers. Each specification adopted for any commodity shall, insofar as possible, satisfy the requirements of any and all offices which use it in common. The advisory council shall adopt standard specifications which shall, until revised or rescinded, apply alike in terms and effect to every future purchase of the commodity described in such specifications; provided, that the advisory council may exempt any office from using a commodity of the quality described in such specification.

15.30 The advisory council shall make rules and regulations not inconsistent with law, governing the manner, methods and times of making requisitions and the methods of purchase, delivery, cash discounts, inspection, testing and storage and periodic inventories of the material, services and other expense required by section 15.28 to be purchased and procured through the state purchasing bureau. Such rules and regulations shall also provide for the transfer of supplies, materials and equipment, which are surplus with one office to another which may need them, in which case due credit shall be given to the office releasing the same, and for the disposal, by private or public sale, of supplies, materials and equipment which are obsolete and unusable. The proceeds of such sales shall be paid into the general fund of the state treasury.

15.31 All materials, supplies, apparatus, equipment and other things required to be furnished by the director of purchases which are manufactured at the state prison or at any of the other public institutions of the state shall be purchased by the said director of purchases from said prison or institution.

15.32 Except as otherwise provided in sections 15.26 to 15.40 and in the rules and regulations adopted pursuant thereto, all supplies, materials, equipment and contractual services shall be purchased for and furnished to any office only upon requisition to the director of purchases or his authorized agents. The director of purchases shall prescribe the form, contents, number and disposition of requisitions.

15.33 (1) All materials, supplies, equipment and contractual services except as otherwise provided herein, when the estimated cost thereof shall exceed three thousand dollars, shall be purchased from the lowest responsible bidder, after due notice inviting proposals, except that stationery and printing shall be let to the lowest bidder in all cases. Such notice shall be published on at least one day in the official state paper and the bids shall not be opened until at least seven days from the last date of publication and ten days from the first date of publication shall have elapsed. In addition to such notice in the official state paper, the advisory council may use such other methods of inviting proposals as it may deem necessary to secure competitive bidding. The official advertisement shall give a clear description of the article to be purchased, the amount of the bond or check to be submitted as surety with the bid and the date of public opening.

(2) The advisory council shall provide the procedure for purchasing supplies, materials, equipment and contractual services, when the estimated cost of same is under three thousand dollars, providing insofar as possible for competition. In the case of purchases of patented mechanical articles over five hundred dollars, such procedure shall provide for securing bids on similar supplies of various standard makes of equal quality and efficiency and for purchases from the lowest responsible bidder.

(3) When the director of purchases believes that it is to the best interests of the state to purchase certain patented or proprietary articles, other than printing and stationery, he shall have power and authority to purchase said articles without the

usual statutory procedure, but with the approval and consent of the advisory council. All equipment shall be purchased from the lowest and best bidder as determined by the bids and a comparison of the detailed specifications submitted with the bids, and after due advertisement as hereinbefore provided. Where the low bid or bids are rejected, a complete written record shall be compiled and filed, giving the reasons in full for such action.

(4) The director of purchases shall have power to let contracts in excess of funds available, provided that any such contract shall state in substance that its continuance beyond the limits of funds already available shall be contingent upon appropriation of the necessary funds.

(5) The director of purchases shall have power to require of bidders or contractors such sureties as, in his judgment, are deemed advisable. He shall have power to decide as to the responsibility and competency of such bidders and sureties, but appeal may be had from his decision to the advisory council.

15.34 (1) All contracts for materials, supplies, equipment and contractual services shall run to the state of Wisconsin, and shall be signed by the director of purchases. All contracts shall contain a clause providing for arbitration of disputes between the state and the contractor regarding quality and quantity.

(2) The director of purchases shall have power and authority to enter into continuing agreements and flexible contracts in anticipation of the needs of departments, which provide for deliveries of specified articles at stated prices, which prices may be lowered through market conditions, but not increased at any time during the life of said continuing agreements or flexible contracts. No such continuing agreements or flexible contracts shall exceed one year's duration.

15.35 No bill or statement for work or labor performed under purchase orders or contracts issued by the director of purchases or his designated agents, and no bill or statement for supplies, materials, equipment or contractual services purchased for and delivered to any office shall be paid until such bill or statement shall have been approved by the director of purchases or his designated agents. Whenever any officer or any subordinate of such officer shall contract for the purchase of supplies, material, equipment or contractual services contrary to the provisions of sections 15.26 to 15.40 or the rules and regulations made pursuant

thereto, such contract shall be void, and any such officer shall be liable for the cost thereof, and if such supply, material, equipment or contractual services so unlawfully purchased has been paid for out of public moneys, the amount thereof may be recovered in the name of the state in an action filed by the attorney-general against such officer or subordinate and his bondsmen. Such cause of action shall be deemed to have arisen in Dane county, and summons shall be served therein as in civil actions.

15.36 The director of purchases shall have authority to establish necessary warehouses wherein he shall be permitted to store such staple and standard articles as are needed by various state officers.

15.37 The director of purchases shall have power and it shall be his duty :

(1) To lease all quarters required for the performance of the duties of state offices and officers outside of state owned buildings, subject to the approval of the advisory council;

(2) To purchase from time to time so many copies of the latest digest of the Wisconsin reports, and such volumes of said reports, as may be required to complete such sets of said reports as may be called for to supply new courts and new counties; and also such volumes of said reports as may be required by the state librarian to make the exchanges provided for by law with other states and territories;

(3) To distribute all public printing to the officers and organizations entitled thereto as provided in sections 35.84 to 35.91, and to sell public documents as authorized in section 35.91;

(4) (a) To distribute in pamphlet form such laws as may be required to meet the public demand, including the constitution and additional copies of election laws; also blank nomination papers and other election blanks and supplies, not otherwise provided for, for use of candidates, committees, and by city and county clerks. Such laws, blanks and supplies shall be sold by said superintendent at cost, plus fifteen per cent and necessary postage or other transportation charges.

(b) The director of purchases shall confer with the secretary of state and the attorney-general as to what law pamphlets, blanks and other election supplies shall be so printed, or purchased, and offered for sale.

15.38 (1) The director of purchases shall succeed to all of the powers, duties and functions of the former printing board, relating to state printing and binding, as prescribed in chapter 35.

(2) Wherever in the statutes the terms "printing board," "editor of the printing board" or "board," referring to the printing board, are used, these terms shall be construed and understood to apply to the state purchasing bureau and the director of purchases.

(3) Wherever in the statutes the terms "superintendent of public property" or "superintendent", referring to the superintendent of public property, are used, these terms shall be construed and understood to apply to the state purchasing bureau and the director of purchases.

15.39 In addition to other powers vested in the director of purchases, he and his duly authorized representatives:

(1) Shall have access at all reasonable times to all state offices;

(2) May examine all books, records, papers and documents in any such office or institution as pertain directly or indirectly to the purchase of, control of, or distribution of supplies, materials and equipment;

(3) May require any officer to furnish any and all reasonable data, information or statement relating to the work of his department.

15.40 The director of purchases shall prepare and deliver, within thirty days after the end of each calendar year, an annual report to the governor which shall become a public record and shall be available to the public.

15.76 There is created within the executive department a bureau of engineering. The directing head of said bureau shall be the state chief engineer who shall be appointed by the governor, subject to the provisions of chapter 16. He shall be paid such salary as may be fixed by the governor, within the salary ranges for the position established pursuant to law.

15.77 The state chief engineer shall exercise the powers and duties prescribed by this chapter:

(1) To take charge of and supervise all engineering or architectural service or construction work performed by, or for, the state, or any department, board, institution, commission or officer thereof, except the state highway commission;

(2) To furnish engineering and architectural services whenever requisitions therefor are presented to him by any such department, board, commission or officer;

(3) To act and assist any such department, board, commission or officer requesting such co-operation and assistance, in letting contracts for engineering or architectural work authorized by law and in supervising the work done thereunder;

(4) To approve the appointment of a chief engineer connected with all state owned power and electric plants and pumping and heating stations and to provide for the methods of operating said plants and stations and shall design records and forms for reporting accurately the cost per unit of product or service. The superintendent or other person having charge of said plants shall not only report to his governing body but to the state engineer in the manner provided and at such times as the state chief engineer shall determine.

(5) (a) To have charge of, operate, maintain and keep in repair the state capitol building and the grounds connected therewith, the capitol annexes and leased quarters, the executive residence, the light, heat and power plant and such other state properties as may be designated by law; to appoint such number of policemen as may be necessary to safeguard all public property placed by law in his charge, and, personally or by any such policeman, to arrest, with or without warrant, any person violating any law within or around any of said properties.

(b) Applications for temporary quarters for committees or other bodies shall be made to the state engineer who shall have authority to make assignments therefor.

(c) To let concessions, subject to the approval of the advisory council, for periods not exceeding two years for the operation of a restaurant, barber shop, and cigar stand in the capitol, under such terms and conditions as will in his judgment be most favorable to the state, and secure efficient and economical service;

(6) To appoint, subject to the provisions of chapter 16 and subject to the approval of the department, board, commission or officer applying therefor, one or more assistant state engineers or architects for continuous engineering or architectural service with such applicant, whenever such continuous service is needed;

(7) To keep accurate records of the work done by his department and of the expenditures connected therewith;

(8) To prepare an annual report to the governor showing the expenditures of his department, and the expenditures on behalf of each department, board, commission or officer for which work has been done; and showing in tabular form the cost of operation per unit of product or service of each power or electric plant, heating or pumping station, operated by any state institution and a summary of the engineering or architectural work performed for the state during the period covered by the report;

(9) To rebuild and repair discarded machinery of the several state institutions where found advisable, and put the same back into service.

(10) The state chief engineer shall make an annual inspection of each building of the state at each state institution. Upon the completion of such inspection, he shall report his findings to the governor and to the board, commission or officer in charge of such institution.

15.78 The assistants appointed pursuant to subsection (6) of section 15.77 shall have charge and supervision of the work of the department, board, commission or officer upon whose application such appointment was made, subject, however, to the general direction of the state chief engineer and the immediate direction of such applicant.

15.79 Every contract for engineering or architectural service or for construction work to be done for, or furnished to the state, or any department, board, commission or officer thereof, shall, before it becomes valid or effectual for any purpose, have indorsed thereon in writing the approval thereof of the state chief engineer or his designated assistant, and in the case of contracts involving an expenditure of one thousand dollars or more the approval of the governor; and no payment or compensation for work done under any contract shall be made unless the written claim therefor shall be audited and approved by said state chief engineer.

15.80 The cost of services furnished pursuant to subsections (2), (3), (4), (6) and (7) of section 15.77 shall be charged to and paid out of the respective appropriations to the departments, boards, commissions or officers receiving such services, whenever in the judgment of the state chief engineer the cost

of the service to each can be separately ascertained with reasonable accuracy.

15.81 No department, board, commission, officer or agent of the state shall employ engineering or architectural service or expend money for construction purposes on behalf of the state, except as provided in this chapter. No repair or improvement shall be authorized or undertaken by any board, commission or officer in charge of any institution prior to the completion of the report of the state chief engineer, except in cases of emergency, which shall be first reported to the state chief engineer before any work thereon is commenced.

15.82 The advisory council shall provide the state chief engineer with suitable rooms, and with furniture, materials, stationery and other supplies with which to perform the duties of his office.

SECTION 3. Subsections (3) and (4) of section 14.65, subsection (1) of section 14.71, the introductory paragraphs of sections 20.10, 20.11, 20.12 and 35.03, subsection (1) of section 37.02 and subsections (1) and (2) of section 46.09 of the statutes are amended to read: (14.65) (3) The * * * *advisory council of the executive department* shall aid and advise in the correlation and co-ordination of state work as provided in this section, and * * * *said council* and the state civil service commission, after consultation with the state officers, commissions and boards, shall formulate and may from time to time alter rules and regulations governing such interchange and joint employments and assignments of employees as provided in this section. All such rules and regulations and alterations shall be subject to the approval of the governor, and when so approved shall be published.

(4) Each officer, commission and board shall keep a record of all work done for or in co-operation with other officers, commissions and boards under this section, and shall make a report thereof to the * * * *advisory council* in such form and at such times as is prescribed in the rules and regulations formulated under subsection (3). * * *

(14.71) (1) Except as expressly provided by law, the governor, secretary of state, state treasurer, attorney-general, state superintendent, commissioner of insurance, state fire marshal, * * * *director of purchases*, railroad commission, dairy and food commissioner, superintendent of weights and measures, in-

dustrial commission, adjutant general, state board of control, grain and warehouse commission, civil service commission, tax commission, commissioners of public lands, state conservation commission, supervisor of inspectors of illuminating oils, state treasury agent, commissioner of banking, * * * free library commission, state chief engineer, commissioner of agriculture, board of public affairs, geological and natural history survey, state board of health, state highway commission, state board of medical examiners, state board of dental examiners, state board of pharmacy, Wisconsin real estate brokers board, state board of vocational education and state athletic commission are each authorized to appoint such deputies, assistants, experts, clerks, stenographers, or other employes as shall be necessary for the execution of their functions, and to designate the titles, prescribe the duties, and fix the compensation of such subordinates, but these powers shall be exercised subject to the state civil service law, unless the position filled by any such subordinate has been expressly exempted from the operation of chapter 16 and subject, also, to the approval of such other officer or body as may be prescribed by law.

(20.10) (Introductory paragraph) There is appropriated from the general fund to the * * * *director of purchases for the performance of his duties in relation to state purchases and other duties prescribed in sections 15.26 to 15.32:*

(20.11) (Introductory paragraph) There is appropriated from the general fund to the * * * *director of purchases for the performance of his duties in relation to state printing and binding:*

(20.12) (Introductory paragraph) There is appropriated from the general fund to the * * * *bureau of engineering in the executive department:*

(35.03) (Introductory paragraph) The * * * *director of purchases* is empowered and required:

(37.02) (1) The board of regents and their successors in office are constituted a body corporate by the name aforesaid; and may purchase, *in the manner provided by law*, have, hold, control, possess and enjoy, in trust for the state, for educational purposes solely, any lands, tenements, hereditaments, goods and chattels of any nature which may be necessary and required for the purposes, objects and uses of the state normal schools authorized by law and none other, with full power to sell or dis-

pose of such personal property *in the manner provided by law*, or any part thereof when in their judgment it shall be for the interest of the state; and shall possess all other powers necessary or convenient to accomplish the objects and perform the duties prescribed by law. The board of regents shall not sell, mortgage or dispose of in any way any real estate, nor borrow money without the express authority of the legislature; nor shall they contract indebtedness nor incur liabilities to exceed, at any time, in the aggregate, the amount of money which, under the provisions of law, shall then be at their disposal in the hands of the state treasurer; nor shall said board ever reduce the amount so at their disposal below the aggregate amount of their indebtedness or liability, except in payment of such indebtedness or liability. The proceeds of the sale of any real or personal estate shall be paid by them into the treasury, and shall become a part of the income of the normal school fund. •

(46.09) (1) The steward of each institution shall be the local business manager and * * * *requisitioning officer* thereof, subject to the direction and the rules and regulations of the state board of control, and within the limits of the monthly estimates made for the purpose shall purchase *as provided in sections 15.26 to 15.40*, all materials and supplies necessary therefor. He shall have the immediate charge of all books, accounts, papers and records relating to its financial management, and shall keep detailed accounts of all receipts and expenditures, be responsible for the safe-keeping and economical use of all stores and supplies, and require verified bills of all articles bought.

(2) All materials and supplies shall be purchased * * * *as provided in sections 15.26 to 15.40*; provided, that no butter or cheese not made wholly and directly from pure milk or cream, salt and harmless coloring matter shall be purchased for or used in any of the charitable, reformatory or penal institutions of the state.

SECTION 4. The director of purchases shall succeed to all of the property, documents, records, assets, liabilities and obligations of the printing board and of such of the property, documents, records, assets, liabilities and obligations of the superintendent of public property and the state department of engineering which relate to powers, duties and functions of these

departments which are in this act transferred to the bureau of purchases and the director of purchases.

SECTION 5. All employes of the printing board, and all employes of the superintendent of public property who are engaged in work connected with the powers, duties and functions of this officer which are by this act transferred to the bureau of purchases and the director of purchases, are continued as employes of the bureau of purchases in the same positions and at the same salaries as held by them immediately prior to the taking effect of this act, subject to the right of the director of purchases to make changes as he may deem advisable in personnel, duties and salaries, in the manner provided by law. Any of the employes of the superintendent of public property who are not now subject to provisions of chapter 16 may come under this chapter by filing a history of their employment with the director of personnel within sixty days after this act takes effect.

SECTION 6. All unexpired leases for quarters outside of the capitol building executed prior to the taking effect of this act by the superintendent of public property shall remain in full force and effect notwithstanding the passage of this act.

SECTION 7. The state chief engineer shall succeed to all of the property, documents, records, liabilities and obligations of the state department of engineering which is abolished in this act and also to such of the property, documents, records, assets and obligations of the superintendent of public property which relate to powers, duties and functions which are in this act transferred to the bureau of engineering and the state chief engineer, and regulations of the state department of engineering in force immediately prior to the taking effect of this act shall continue in force until modified by the state chief engineer. All work begun and not completed by the state department of engineering may be completed by the bureau of engineering in the executive department and the state chief engineer, and all contracts approved by the former state chief engineer shall be fulfilled in the same manner as if this act had not been passed.

SECTION 8. All employes of the state department of engineering and all employes of the superintendent of public property engaged in any work jurisdiction over which is by this act transferred to the bureau of engineering and the state chief engineer are continued as employes of the bureau of engineering in their present positions and at their present salaries, subject to

the right of the state chief engineer to make changes in personnel, positions and salaries as provided by law. Any of the employes of the state department of engineering or the superintendent of public property who are by this section continued as employes of the bureau of engineering and who are not now subject to chapter 16 shall come under the operation of said chapter by filing a history of their employment with the director of personnel within sixty days after the taking effect of this act.

SECTION 9. Whenever in any statute which is not repealed or amended in this act the terms "state department of engineering" or "state chief engineer" are used said terms shall be understood to apply to the bureau of engineering in the executive department and to the state chief engineer.

SECTION 10. The individual who shall hold the position of state chief engineer immediately prior to the taking effect of this act shall become the first state chief engineer, in charge of the bureau of engineering in the executive department, upon filing a history of employment with the governor and the director of personnel.

SECTION 11. This act shall take effect upon passage and publication.

Approved September 5, 1929.

No. 845, A.]

[Published September 9, 1929.

CHAPTER 469.

AN ACT to repeal subsections (1), (3), (4), (5) and (10) of section 20.10, the introductory paragraph and subsections (1) and (6) of section 20.11 and subsections (1), (3), (4), (5), (6), (7), (9), (11), (13), (14) and (15) of section 20.12; to renumber subsections (2), (3), (4) and (5) of section 20.11 to be subsections (3), (4), (5) and (8) of section 20.10; to amend the introductory paragraph of section 20.10; and to create subsection (1) of section 20.10 and subsections (1), (3) and (4) of section 20.12 of the statutes, relating to the bureaus of purchases and engineering in the executive department and making appropriations.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Subsections (1), (3), (4), (5) and (10) of section 20.10, the introductory paragraph and subsections (1) and