

No. 573, S.]

[Published August 1, 1953.

CHAPTER 540

AN ACT to repeal, renumber, renumber and amend, amend and to create various provisions of the statutes and session laws for the purpose of correcting errors, clarifying language, renumbering for better location, correcting references, reconciling conflicts, repelling unintended repeals, supplying omissions and eliminating unnecessary and obsolete provisions.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 8.02 (2) of the statutes is amended to read:

8.02 (2) The election to fill a vacancy in the office of justice or judge shall not be held at the time of holding the regular election for the same office. If the vacancy occurs * * * 90 days or more before the first Tuesday in April, in the case of a judge, such election shall be held on the first Tuesday of the succeeding April, and in case of a justice, at the first judicial election when no other justice is to be elected. In either case, if the vacancy occurs less than * * * 90 days prior to the first Tuesday of April, the election to fill the vacancy shall not be held until the judicial election of the next year.

SECTION 2. 11.17 of the statutes is amended to read:

11.17 (1) All * * * statutes relating to the use of voting machines at elections, and all penalties prescribed for violations of such * * * statutes shall apply to the use of voting machines at primary elections in so far as such laws are not in conflict with * * * ss. 11.15 to 11.17. * * *

(2) Any voting machine used at a primary election, which has been sealed, closed or locked, as prescribed in s. 11.13 * * *, may be opened 7 days after such sealing, closing or locking.

SECTION 3. 14.57 (5b) of the statutes, as created by section 3 of chapter 251 (Bill No. 139, A.), laws of 1953, is renumbered 39.02 (5b).

SECTION 4. 20.01 (6) (a) of the statutes is amended to read:

20.01 (6) (a) Thirteen legislative clerks, who shall assist the chief clerk in maintaining the official records of proceedings of the assembly, index, revise and enroll bills, maintain mailing lists, and perform such other work as may be required, \$7 per day. Two of said clerks shall be assigned to the revising and enrolling of bills and shall have some knowledge of and experience in proof reading as evidenced by such tests as the bureau of personnel may require; * * * one of * * * said clerks shall be assigned to the operation of the voting machine and * * * shall receive \$1 a day more than the amount stipulated for legislative clerks in this paragraph.

SECTION 5. 20.036 (7) (g) of the statutes is amended to read:

20.036 (7) (g) Any moneys received by the state under the provisions of s. 45.37 (3) and (3a), or any moneys received by gifts or bequest shall be paid into the general fund, and are appropriated therefrom to carry out the purposes of s. 45.37.

SECTION 6. 20.175 (3) (b) of the statutes is amended by inserting "institute of technology," before "Stout institute," and 20.175 (3) (a) and (c) are amended to read:

20.175 (3) (a) As used in this subsection, "department" includes the board of regents of state colleges, *institute of technology*, and the trustees of Stout institute; "institution" includes all state colleges, *institute of technology*, and Stout institute; "superintendent" means the head of any institution as defined above.

(c) By the procedure provided in *par.* (b) the board of trustees of *the institute of technology*, the Stout institute, the board of regents of state colleges and the several institutions under its control may use money in the respective contingent funds to pay bills of \$500 or less which allow the taking of a discount if paid in 30 days or less and for the payment of necessary expenses which must be met by the payment of cash.

SECTION 7. 20.565 of the statutes is amended by substituting "state registration board of architects and professional engineers" for "board of examiners of architects and civil engineers".

SECTION 8. 20.727 (2) of the statutes is amended by substituting "s. 20.725" for "20.725 (1)".

SECTION 9. 20.73 (2) (f) of the statutes is amended to read:

20.73 (2) (f) State historical society: director, * * * *chief of the American history research center* and * * * *chief of interpretation and education.*

SECTION 10. Effective July 1, 1953, 25.16 (2), (3) and (4) of the statutes are amended to read:

25.16 (2) Said board shall designate one member of said commission to be the chairman thereof who shall have the direction of all employes of the board. It shall be the duty of the chairman to sign all documents which must be executed by the commission.
* * *

(3) Said board shall designate one member of the commission to be the vice-chairman thereof. It shall be his duty to act for, and in place of, the chairman in the event of the absence or disability of the chairman. * * *

(4) Said board shall designate one member of the commission to be the secretary thereof. It shall be his duty to countersign all documents which must be executed by the commission and to keep the minutes of the meetings of the board and the records of the commission. * * *

SECTION 11. 25.36 of the statutes is amended to read:

25.36 (1) All moneys * * * *heretofore or hereafter* appropriated or transferred thereto by law constitute the veterans' housing trust fund which shall be used exclusively for veterans' housing and administered by the Wisconsin department of veterans' affairs. The department shall not allocate to county, city or village housing authorities for veterans' housing purposes amounts aggregating in excess of 20 per cent of the funds appropriated * * *.

(2) The moneys received in the veterans' housing trust fund * * * shall be allocated in the several counties as nearly as practicable on the basis of veterans' population.

SECTION 12. 29.13 (1) of the statutes is amended to read:

29.13 (1) Trapping licenses, which authorize the use of traps for trapping fur-bearing animals, shall be issued by the state conservation commission, and by the county clerks of the several counties on blanks supplied by the commission, subject to the provisions of s. 29.09, to persons duly applying therefor who have resided in this state for at least one year preceding the application. The fee for each such license is \$1.50. If a trapper employs any person in trapping, a license is required for each person so employed. Each trap used under a trapping license shall be tagged with a metal tag stamped with the year for which the * * * *license* is issued. Such tags shall be furnished by the conservation commission and sold by the commission or the county clerk upon payment of 10 cents for each tag; the county clerk is allowed one-half cent per tag for the sale of such tags. All untagged traps shall be seized and confiscated, and the owner or person using or attending such untagged traps shall be punished as provided in s. 29.63 (1) (d) and * * * (3).

SECTION 13. The last sentence of 35.34 (1) of the statutes is amended to read:

35.34 (1) (last sentence) The form of all blank pay rolls and expense sheets to be used by any agent, officer, board, commission or commissioner of the state shall be prepared by the * * * *director of budget and accounts.*

SECTION 14. 35.75 of the statutes is amended by substituting "s. 20.62" for "section 20.62 (2) (b)".

SECTION 15. 39.01 (2) (c) of the statutes, as created by chapter 1, laws of 1953, is renumbered 39.05 (1m) and amended to read:

39.05 (1m) None of the qualifications specified in * * * *sub. (1)* shall apply to any person holding the office of county superintendent on January 1, 1953.

SECTION 16. 39.16 of the statutes, as renumbered and amended by chapter 90 (Bill No. 1, S.), laws of 1953, is amended to read:

39.16 The county superintendent may each year conduct one or more institutes for the teachers of his district. * * *

SECTION 17. 40.303 (15) of the statutes, as created by chapter 13, laws of 1953, is renumbered 40.03 (9), and 40.03 (9) (c), as renumbered, is amended to read:

40.03 (9) (c) Paragraphs (a) and (b) shall not apply in any case where the order of the county school committee has been disapproved at a valid referendum held under * * * s. 40.303 (8) or (14), *statutes of 1951*, and the school district involved has not

thereafter exercised the rights and privileges of a school district for a period of 4 months, or where litigation questioning the validity of the organization of a school district is pending in any court of the state on * * * *March 27, 1953*, or where a petition for a referendum has been filed pursuant to *said* sub. (8) and such referendum has not been held prior to * * * *March 27, 1953*.

SECTION 18. 40.53 (2) of the statutes, as renumbered and amended by chapter 90 (Bill No. 1, S.), laws of 1953, is amended to read:

40.53 (2) Every district shall provide transportation for physically disabled children, as defined in s. 41.01 (4), to any elementary or high school or to the *Wisconsin school for the visually handicapped or the Wisconsin school for the deaf*, regardless of distance, provided the request for such service is approved by the state superintendent. State aid for such approved cases shall be granted on the same basis as transportation of normal children. These aids shall be supplemented by the aids provided for by s. 41.03 in an amount not to exceed the full cost. The approval of such cases shall be based on whether or not the child can walk to school with safety and comfort.

SECTION 19. 40.70 (1) of the statutes, as renumbered and amended by chapter 90 (Bill No. 1, S.), laws of 1953, is amended to read:

40.70 (1) "Pupils in average daily attendance" is the sum of actual daily attendances in all schools of the district for each day of the school term divided by the number of days school is actually held. The quotient, if it contains a fraction, shall be expressed as the nearest whole number. In computing the number of pupils in average daily attendance no first grade pupil shall be counted unless he attains the age of 6 years on or before December 1 of the school year in which he enters first grade. A pupil enrolled in a recognized half-day kindergarten program shall be counted as one-half pupil provided he attains the age of 5 years on or before December 1 of the year in which he enrolls. A pupil enrolled in a 4-year-old-half-day kindergarten program shall be counted as one-half pupil if he attains the age of 4 years on or before December 1 of the year in which he enrolls. * * * The same formula shall be used in computing average daily attendance for resident pupils, nonresident pupils, or both.

SECTION 20. 40.70 (4) of the statutes, as renumbered by chapter 90 (Bill No. 1, S.), laws of 1953, is repealed; and 40.373 (1) (c), as amended by chapter 5, laws of 1953, is renumbered 40.70 (4).

SECTION 21. Effective July 1, 1953, 42.22 (5) of the statutes is amended to read:

42.22 (5) The executive head of the board shall be the executive secretary thereof. He shall be appointed by the board * * *. He shall furnish a bond for the faithful performance of his duties in such sum and with such sureties as the board may require, the cost of which shall be borne by the board.

SECTION 22. The title to chapter 51 of the statutes is amended to read:

CHAPTER 51.

* * * *STATE MENTAL HEALTH ACT.*

SECTION 23. 51.02 (1) (a) of the statutes is amended to read:

51.02 (1) (a) On receipt of the application or of the report of the examining physicians, the judge shall appoint a time and place for hearing the application and shall cause notice thereof to be served upon the patient in the manner prescribed in s. 262.08 (1), (2) or (3), which notice shall state that application has been made for an examination into his mental condition (withholding the names of the applicants) and that such application will be heard at the time and place named in the notice; but if it appears to the satisfaction of the judge that the notice would be injurious or without advantage to the patient by reason of his mental condition, the service of notice may be omitted. The judge may, in his discretion, cause notice to be given to such other persons as he deems advisable. If the notice is served the judge may proceed to hold the hearing at the time and place specified therein; or, if it is dispensed with, at any time. The judge may, by attachment for the person of the patient, cause him to be brought before the judge for the hearing.

SECTION 24. 62.23 (7) (e) 1. of the statutes is amended to read:

62.23 (7) (e) 1. The council which enacts zoning regulations pursuant to this section shall by ordinance provide for the appointment of a board of appeals, and shall provide in such regulations that said board of appeals 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.

SECTION 25. 66.067 of the statutes is amended to read:

66.067 PUBLIC WORKS PROJECTS. For * * * financing * * * *purposes*, garbage incinerators, toll bridges, swimming pools, tennis courts, parks, playgrounds,

golf links, bathing beaches, bathhouses, street lighting, city halls, courthouses, jails, schools, hospitals, and any and all other necessary public works projects * * * undertaken * * * by any town, village, city, county or other municipality * * * are public utilities within the meaning of s. 66.066. In financing under that section, rentals and fees shall be considered as revenue. Any indebtedness created pursuant to this section shall not be * * * included in arriving at the constitutional 5 per cent debt limitation.

SECTION 26. 66.11 (3), (4) and (5) of the statutes are renumbered 331.36, 66.125 and 17.245, respectively.

SECTION 27. 71.02 (4) of the statutes is amended to read:

71.02 (4) All fiscal years ending between the * * * *June thirtieth* preceding and the * * * *July first* following the close of a calendar year shall correspond to such calendar year for the purposes of this chapter, and no fiscal year shall end on any date other than the last day of any month.

SECTION 28. 74.12 (1) of the statutes is amended to read:

74.12 (1) In addition to the other remedies provided in this chapter an action of debt or an action of attachment shall lie in the name of the town, city or village, and, after the tax is returned as delinquent, in the name of the county, for any tax assessed against any person upon personal property remaining unpaid after the last day of January. Summons or warrants in such action shall issue at the request of the treasurer of the town, city, village or county as the case may be and shall be subject to all the rules of law and practice applicable to actions of debt or attachment, except that the warrant of attachment shall be issued on the making and filing of an affidavit by the proper treasurer or district attorney that such taxes are delinquent. Such summons or warrant when issued by a justice of the peace may in addition to the other methods of service provided by law in justice's court be served as provided in * * * s. 262.08 or 262.09. Such summons or warrant shall state that it is issued for the collection of a tax and judgment may be entered and execution issued as provided in this chapter. It shall be the duty of the district attorney upon request to attend and prosecute any action or proceeding commenced under any of the provisions of this chapter for the collection of a tax.

SECTION 29. 104.08 (2) and 104.10 of the statutes are amended by substituting "ss. 104.01 to 104.12" for "this act".

SECTION 30. 108.16 (8) (e) of the statutes is amended to read:

108.16 (8) (e) The account taken over by the successor employer shall remain liable with respect to accrued benefit and related rights based on employment in the transferred business, and all such employment shall be deemed employment performed for such employer.

SECTION 31. The title to Chapter 112 of the statutes is amended to read:

CHAPTER 112.
* * * FIDUCIARIES * * *

SECTION 32. 176.05 (21) (a) of the statutes, as created by chapter 6, laws of 1953, is amended by substituting "subsection" for "section."

SECTION 33. 176.05 (22) of the statutes, as renumbered by chapter 6, laws of 1953, is amended to read:

176.05 (22) No governing body of any city, town, or village shall issue any retail "Class B" intoxicating liquor license to any other person, firm, or corporation, in place of any license surrendered, for the reason indorsed thereon and signed by the licensee named therein, that the licensee has discontinued business by reason of entry into the armed forces of the United States to serve in World War II, unless said licensee shall surrender and release in writing all his right, title and interest in and to said license. Notwithstanding any provision of * * * *sub. (21)*, or of this * * * *subsection*, the governing body to which such license was surrendered may grant a retail "Class B" intoxicating liquor license to any licensee who surrendered such license for the foregoing reason without written release of his right, title and interest therein, upon application therefor made at any time within 6 months after the applicant's discharge from the armed forces, provided the applicant is qualified under subs. (9) and (10). This * * * *subsection* shall apply only in cases where the licensee is the owner in fee simple of the premises for which the surrendered license is issued and where the premises are not to be used for any other business purpose in the licensee's absence.

SECTION 34. 185.22 (3) of the statutes is repealed.

SECTION 35. 192.50 (3) of the statutes is amended to read:

192.50 (3) In all actions * * * brought against such railroad company under or by virtue of any of the provisions of this section to recover damages for personal in-

juries to any employe, or where such injuries have resulted in his death, the fact that the employe may have been guilty of contributory negligence shall not bar a recovery, but the damages shall be diminished by the jury in proportion to the amount of negligence attributable to such employe. Provided, that no such employe who may be injured or killed shall be held to have been guilty of contributory negligence in any case where the violation by such railroad company of any statutes enacted for the safety of employes contributed to the injury or death of such employe. Provided, further, that in any action brought against any common carrier under or by virtue of any of the provisions of this * * * section to recover damages for injuries to, or death of, any of its employes such employe shall not be held to have assumed the risk of his employment in any case where the violation by such common carrier of any statutes enacted for the safety of employes contributed to the injury or death of such employe.

SECTION 36. Article III of 202.01 (2) (a) of the statutes is amended to read:

202.01 (2) (a) Article III. The company shall be managed by a board of directors consisting of . . . [not less than five nor more than eleven] members divided into three classes. One class shall be elected by each annual meeting for a term of three years. The directors shall have all the rights, powers and duties which are not inconsistent with the law or with this company's articles or by-laws. Vacancies in the board may be filled by the directors for the interim to the next annual meeting when a director shall be chosen for the unexpired term.

SECTION 37. 202.08 (1a) (b) of the statutes is amended by substituting "(1a)" for "(1)" wherever that reference occurs.

SECTION 38. 210.04 (6) of the statutes is amended to read:

210.04 (6) * * * *On January 1 of each year* the state treasurer shall credit the state insurance fund with interest on the average amount in such fund for the preceding 12 months at the average rate of interest earned by the state upon its bank deposits during that period. If said fund * * * is indebted to the general fund of the state such fund shall be charged, at the end of each calendar year, with interest on such indebtedness at the average rate earned by the state upon its bank deposits during the period of such indebtedness and such sum shall be credited to the general fund, provided that the state * * * of Wisconsin investment board may cause such funds to be invested in the securities authorized in s. 206.34.

SECTION 39. 210.05 (2) of the statutes is amended to read:

210.05 (2) The state treasurer shall be ex officio treasurer and custodian of the life fund, and all other matters in relation thereto shall be under the supervision of the commissioner of insurance. Each shall give such bond therefor as may be required and approved by the governor and secretary of state, which shall be filed with his official bond. The state * * * of Wisconsin investment board shall cause the moneys in the life fund to be invested and reinvested in the securities authorized in s. 206.34, and may sell and dispose of such securities as may be necessary in the management of such fund. In making such investments, preference shall be given to applications for loans to farmers and co-operative associations.

SECTION 40. 230.47 (2) of the statutes is amended to read:

230.47 (2) An administrator or executor shall include in his inventory the interest which the decedent owned as such joint tenant * * * or life * * * tenant before his death. The county court shall adjudicate in the final judgment or order for assignment regarding the termination of such joint tenancy * * * or life estate and regarding such other facts as are essential to a full and final determination of the rights of the parties interested.

SECTION 41. 230.48 of the statutes is amended to read:

230.48 (1) Upon the death of one or more or all joint tenants * * * in any real estate mortgage or in any real estate mortgage note, bank account, stock, bond, chose in action or other personal property, any surviving cotenant or any person interested in such real estate mortgage or real estate mortgage note, bank account, stock, bond, chose in action or other personal property may petition the county court of the county where decedent resided during his lifetime or if the deceased was a nonresident, of the county where the property is located for a certificate of the termination of * * * such tenancy and of his survivorship. Upon such application the same proceedings shall be had, and a similar certificate issued as is provided in s. 230.47 and with like effect.

(2) An administrator or executor shall include in his inventory the interest which the decedent owned as such joint tenant * * * in any real estate mortgage note, bank account, stock, bond, chose in action or other personal property before his death. The county court shall adjudicate in the final judgment or order for assignment regarding the termination of such joint tenancy * * * and regarding such other facts as are essential to a full determination of the rights of the parties interested.

SECTION 42. 236.18 of the statutes is amended to read:

236.18 HEARING; ORDER. * * * *If satisfactory evidence is produced* that such notices have been given and served the court shall hear all parties in interest and determine such petition, and may vacate such plat or any part thereof, provided that no alleys immediately in the rear of lands fronting on state or county trunk highways shall be vacated without the prior approval of the county board of supervisors, and enter * * * *an order* accordingly; and when it * * * *appears* that such plat has been recorded for more than 40 years preceding the filing of the application for vacation and that the streets within that part of the plat sought to be vacated have during all of said period remained in their natural conditions and have not been improved as streets and that such streets are not necessary as a means of reaching other platted property, and that all of the owners of all of the land within the part of the plat sought to be vacated have joined in the petition, the court shall vacate such plat or part thereof and enter * * * *an order* accordingly. The * * * *order* so made, together with the plat, if only a part of the plat is vacated, showing the part vacated, shall be recorded in the office of the register of deeds.

SECTION 43. 247.05 of the statutes is amended to read:

247.05 For the purposes of annulment of marriage, jurisdiction may be acquired by publication as provided in the statutes, by personal service upon the defendant within this state, or in the manner provided in s. 262.08 (4) or 262.12, when either party is a bona fide resident of this state at the time of the commencement of the action. When both parties are nonresidents, jurisdiction to annul a marriage contracted within the state may be acquired in the same manner provided the action is commenced within a year after such marriage.

SECTION 44. 247.06 (introductory paragraph) of the statutes is amended to read:

247.06 (introductory paragraph) For purposes of divorce, either absolute or from bed and board, jurisdiction may be acquired by publication as provided in the statutes, by personal service upon the defendant within this state, or in the manner provided in s. 262.08 (4) or 262.12, under the following conditions:

SECTION 45. 348.50 of the statutes is renumbered 66.293.

SECTION 46. Section 18, chapter 156, laws of 1951, as amended by chapter 113, laws of 1953, is amended by striking out "November" and inserting in lieu thereof "September". If Bill No. 556, S. passes, the same change is made in Section 18, chapter 156, laws of 1951, as amended by that bill.

Approved July 14, 1953.
