

No. 50, S.]

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CHAPTER 33

AN ACT to amend and repeal various provisions of the statutes for the purpose of clarifying language, correcting titles of departments and officers, correcting errors, correcting and clarifying references, eliminating obsolete provisions and reconciling conflicts, and to withdraw one section from the statute book.

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

SECTION 1. 5.27 (4) (a) (last sentence) of the statutes is amended by striking out the words "central standard time."

SECTION 2. 6.17 (1) (first sentence) of the statutes is amended by striking out the words "central time."

SECTION 3. 6.185 (4) (c) of the statutes is amended by striking out the words "central time."

SECTION 4. 6.37 of the statutes is amended to read:

6.37 On receiving his ballot the elector shall forthwith, and without leaving the polling place, retire alone to one of the booths or compartments to prepare the same. An elector may use or copy an unofficial sample ballot which may have been marked in advance of his entering the polling place, but he shall not use or bring into such place any such ballot printed upon paper of the color or quality required to be used for printing official ballots. After preparing his ballot, the elector shall fold it so that its face will be concealed and so that the printed indorsement and signatures or initials of the ballot clerks thereon may be seen. * * * *Each elector, having prepared his ballot as hereinbefore provided, shall, publicly at the poll where he offers to vote, deliver in person to one of the inspectors a single official ballot, and the inspector receiving the same shall, without opening it or permitting it to be opened or examined, deposit it in the box.*

SECTION 5. 6.48 of the statutes is repealed.

SECTION 6. 10.15 (1) (a) (third sentence) of the statutes is amended by striking out the words "central time."

SECTION 7. 16.40 (12) of the statutes is amended to read:

16.40 (12) To advise the executive director of the state of Wisconsin investment board concerning the date when invested funds will be required in the form of cash. Said * * * *director* shall furnish such reports of investments as may be required by the department of administration.

SECTION 8. 20.560 (75) of the statutes is amended to read:

20.560 (75) REFUNDS OF FEES AS A REVOLVING APPROPRIATION. * * * Sums received under s. 20.951 (5) to be used for the refund of overpayments of motor vehicle registration fees.

SECTION 9. 20.850 (3) (third sentence) of the statutes is amended to read:

20.850 (3) (third sentence) That portion of the payments for retirement, social security and group life and health insurance contributions made pursuant to s. 20.551 (9), (11) * * * *and* (14) * * * properly chargeable to federal funds shall be so charged by the * * * board * * *.

SECTION 10. 22.01 (6) of the statutes is amended to read:

22.01 (6) The governor, the lieutenant governor, the state director, the deputy state director, a recognized * * * *civic* leader for each civil defense area selected by the governor, one member of each house of the legislature appointed as are standing committees, and 5 heads of civil defense services selected by the director, shall constitute the civil defense council. The civic leaders shall serve at the pleasure of the governor. The terms of legislative members and of heads of civil defense services shall cease when they cease to be legislators or heads of civil defense services, respectively. The governor shall be chairman, and the lieutenant governor shall be vice-chairman, and the state director shall act in their absence. The council shall meet at the call of the chairman and the members shall be reimbursed for their actual and necessary expenditures incurred in the performance of their duties. The council shall advise with and counsel the governor and the state director on ways and means of providing an effective state program of civil defense.

SECTION 11. 22.02 (2) (f) of the statutes is amended to read:

22.02 (2) (f) May, in the interests of the public peace, health and safety, take, use or destroy private property, real and personal, situated within the area to which the governor's proclamation applies and required in the performance of his duties, subject to the conditions prescribed in s. 22.01 * * * (4) (o).

SECTION 12. 37.32 of the statutes remains in effect but need not be printed in the Wisconsin statutes.

SECTION 13. 38.19 of the statutes is amended to read:

38.19 No member of the board during the term for which he shall have been elected or appointed and for 2 years after the expiration of such term, shall be employed by the board of school directors or by the trustees of the public school teachers' annuity and retirement fund created by s. * * * 38.24, in any capacity for which salary or emolument is provided by said board or by such trustees. No member of the board, superintendent, assistant superintendent, secretary-business manager of the board, other assistant, teacher of any common school or high school, or janitor or other employe of the board, shall be in any wise interested in any purchase or sale of any real or personal property by the city for the use or convenience of any of the schools, and no such contract made in violation of this provision shall be valid, and any consideration paid by the city upon any such purchase or sale herein prohibited, may be recovered in an action at law in the name of the city aggrieved thereby, and any person so offending against the provisions of this chapter shall be removed from any position held by him under this chapter.

SECTION 14. 38.24 (6) (i) of the statutes is amended to read:

38.24 (6) (i) Notwithstanding the provisions of * * * *par. (h)*, the board may, in order to avoid substantial inequities, in the event of extraordinary fluctuation in the market value of the investments, increase or decrease the variable annuity payments at times other than August 31.

SECTION 15. 59.965 (5) (b) of the statutes is amended to read:

59.965 (5) (b) When a general plan has been approved by the county board, the commission shall prepare and submit to the county board tentative expressway project budgets for such units of the comprehensive plan and in order of construction as the commission deems proper. Each such budget shall give reasonably detailed estimates of expenditures required to complete such expressway project and shall also give an estimate of the state and federal aid which will become available for such project. The county board shall determine the amount of the county's share of the cost of such project and the financing thereof, either from the authorization of county expressway bonds pursuant to 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 pursuant to s. 59.84 * * * (5), or by any combination of the foregoing. When the county 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 pursuant to s. 59.84 * * * (5). The county board shall adopt expressway project budgets with such changes as it may deem proper. When so 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. At the request of the commission, the county board may amend any expressway project budget and may transfer appropriations from one expressway project to another.

SECTION 16. 60.065 (1) of the statutes is amended to read:

60.065 (1) REQUISITE CONDITIONS. Where any town contains any area with the population specified in s. * * * 66.015 (1) and (3) which would be entitled to incorporate as a village, the rural portion of the town outside of such urban area may be organized into a new town.

SECTION 17. 60.315 (1) of the statutes is amended to read:

60.315 (1) (a) When the state board of health (referred to in this section as "the state board") through public hearing finds that private sewage disposal systems or private water supply systems or both, in counties having a city of first or second class, or in towns having an unincorporated village as defined in * * * par. (b) with a population of 1,000 or more, are so located and operated that they cause or tend to cause a menace to health or comfort, or pollution of surface waters, and determines that there is no local action to correct the situation, it shall certify such fact to the * * * towns in which such area is located and specify the proposed work which is necessary and the property which is to be included in the district. The * * * town clerks of the area to be affected shall be given at least 30 days' notice by mail of the hearing and the town board shall publish notice of the hearing in a newspaper of general circulation in the proposed district at least 10 days prior to the hearing.

(b) *In this subsection "unincorporated village" means any part of any town or towns not included in any village, lying in the same county or in 2 or more adjoining counties, not more than one half square mile in area, with a resident population of not less than 150; or of a greater area than one half square mile and a population of not less than 200; or not less than one square mile in area, with a population of at least 400 persons to every square mile thereof.*

SECTION 18. 60.81 (2) of the statutes is amended to read:

60.81 (2) REFERENDUM. At the next regular meeting of the town board, said town board by resolution shall provide for a referendum by the electors of said town. The resolution shall determine the numbers and boundaries of each ward of the proposed city, the time of voting, which shall not be earlier than 6 weeks after the adoption of said resolution and said resolution may direct that a census be taken * * * of the resident population of such territory as it may be on some day not more than 10 weeks previous to the date of the election, exhibiting the name of every head of a family and the name of every person a resident in good faith of such territory on such day, and the lot or quarter section of land on which he resides, which shall be verified by the affidavit of the person taking the same affixed thereto.

SECTION 19. 61.189 (2) of the statutes is amended to read:

61.189 (2) The election shall be noticed and conducted and the result canvassed and certified as in the case of regular village elections and the village clerk shall immediately file with the secretary of state 4 copies of a certification certifying the fact of holding such election and the result thereof and a description of the legal boundaries of such village or proposed city and 4 certified copies of a plat thereof; and thereupon a certificate of incorporation shall be issued to such city * * * by the secretary of state. Two copies of the certification and plat shall be forwarded by the secretary of state to the highway commission and one copy to the department of taxation. Thereafter such city shall in all things be governed by the general city charter law. All debts, obligations and liabilities existing against such village at the time of such change shall continue and become

like debts, obligations and liabilities against such city, and such city may carry out and complete all proceedings then pending for the issue of bonds for improvements therein.

SECTION 20. 61.25 (3) of the statutes is amended to read:

61.25 (3) To attend all meetings of the village board; to record and sign the proceedings thereof and all ordinances, rules, bylaws, resolutions and regulations adopted, and to countersign and keep a record of all licenses, commissions and permits granted or authorized by them, and for such purpose to keep the following books: A minute book, in which shall be recorded in chronological order * * * full minutes of all elections, general or special, and the statements of the inspectors thereof; full minutes of all the proceedings of the board of trustees; the titles of all ordinances, rules, regulations and bylaws, with reference to the book and page where the same may be found. An ordinance book, in which shall be recorded at length, in chronological order, all ordinances, rules, regulations and bylaws. A finance book, in which shall be kept a full and complete record of the finances of the village, showing the receipts, the date, amount and sources thereof, and the disbursements, with the date, amount and object for which paid out; and to enter in either such other matters as the board * * * *prescribes*, and such other books as the board * * * *directs*.

SECTION 21. 62.09 (1) (a) of the statutes is amended to read:

62.09 (1) (a) The officers shall be a mayor, treasurer, clerk, comptroller, attorney, engineer, one or more assessors, one or more justices of the peace and constables as determined by the common council, a health commissioner or board of health, street commissioner, a board of police and fire commissioners, except in cities where not applicable, chief of police, chief of the fire department, a board of public works, a board of education or of school commissioners, except in cities where not applicable, 2 aldermen and one supervisor from each ward, and such other officers or boards as are created by law or by the council. In the event that one alderman from each ward is provided pursuant to s. * * * 66.018 (1), the council may, by ordinance, adopted by a two-thirds vote of all its members, and approved by the electors at the general or special election, provide that there shall be 2 aldermen from each ward.

SECTION 22. 66.026 of the statutes is amended to read:

66.026 NOTICE OF LITIGATION. Whenever any proceedings under ss. 60.81, * * * 61.187, 61.189, 61.74, * * * 62.075, 66.013 to 66.019, 66.021, 66.022, 66.025 or other sections relating to an incorporation, annexation, consolidation, dissolution or detachment of territory of a city or village is contested by instigation of legal proceedings, the clerk of the city or village involved in such proceedings shall forthwith file with the secretary of state 4 copies of a notice of the commencement of such action. He shall also file with the secretary of state 4 copies of any judgments rendered or appeals taken in such cases. The notices or copies of judgments as herein required may also be filed by an officer or attorney of any party of interest. The secretary of state shall forward to the highway commission 2 copies and to the department of taxation one copy of any notice of action or judgment filed with him pursuant to this section.

SECTION 23. 66.054 (intro. par.) of the statutes is amended to read:

66.054 (intro. par.) As used in this * * * *section*:

SECTION 24. 71.08 (3) of the statutes is amended to read:

71.08 (3) The first return of an executor or administrator shall be filed in the form and manner and within the time that a return should

have been filed by the decedent had he survived. Subsequent returns of such executor or administrator shall be filed in the form and within the time that the returns of income are required from persons other than corporations, except that no deduction shall be allowed in such subsequent returns for any Wisconsin income taxes paid which have been allowed as a deduction in arriving at the net taxable estate for inheritance tax purposes under s. 72.015 (4). The first return of such executor or administrator shall include the income received by the decedent during the portion of the year preceding the demise of deceased and also items specified in sub. (1). In computing the net income of an estate, a deduction shall be allowed for amounts paid as premium on fidelity bonds of the executor or administrator.

SECTION 25. 71.368 (1) (b) 2 of the statutes is amended to read:

71.368 (1) (b) 2. Additional consideration in certain cases. If *a.* one corporation acquires substantially all of the properties of another corporation, *b.* the acquisition would qualify under par. (a) 3 but for the fact that the acquiring corporation exchanges money or other property in addition to voting stock, and *c.* the acquiring corporation acquires, solely for voting stock described in par. (a) 3, property of the other corporation having a fair market value which is at least 80 per cent of the fair market value of all of the property of the other corporation, then such acquisition shall (subject to subd. 1) be treated as qualifying under par. (a) 3. Solely for the purpose of determining whether clause * * * *c.* of the preceding sentence applies, the amount of any liability assumed by the acquiring corporation, and the amount of any liability to which any property acquired by the acquiring corporation is subject, shall be treated as money paid for the property.

SECTION 26. 107.06 of the statutes is amended to read:

107.06 DAMAGE TO ADJOINING LAND. Whenever such * * * person cannot agree with * * * *the* adjoining owner upon the damages for the right of so conducting or conveying the water across his land * * * *such person* may proceed as provided in s. 32.06 to acquire the rights provided by s. 107.05.

SECTION 27. 136.063 of the statutes is repealed.

SECTION 28. 176.401 (2) of the statutes is amended to read:

176.401 (2) Any person who shall knowingly sell any of the products enumerated in * * * *sub. (1)* for intoxicating beverage purposes, or who shall sell any of the same under circumstances from which he might reasonably deduce the intention of the purchaser to use them for such purposes, shall be subject to the penalties provided for in s. 176.41 * * *.

SECTION 29. 193.45 (2nd sentence) of the statutes is amended to read:

193.45 (2nd sentence) At the time of fixing the compensation and other terms and conditions of sale and purchase, as provided in * * * *s. 193.43*, the commission shall determine whether public convenience and necessity require the interurban company to continue to operate over the tracks and to continue to use the plant of the interurban company so acquired by the municipality, and if so, the compensation to be paid therefor and the terms and conditions under which said interurban company may continue to operate over said tracks and use said plant, such terms and conditions and such compensation for the use of said tracks and plant being subject to review from time to time by the commission upon written application of either party.

SECTION 30. 195.33 (4) of the statutes is amended to read:

195.33 (4) In making such investigation the commission may avail itself of any information in possession of the * * * *department of taxation*.

SECTION 31. 200.03 (17) of the statutes is repealed.

SECTION 32. 204.31 (3) (b) 5. a. of the statutes is amended to read:

204.31 (3) (b) 5. Insurance With Other Insurers: a. If there be other valid coverage, not with this insurer, providing benefits for the same loss on other than an expense * * * *incurred* basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability for such benefits under this policy shall be for such proportion of the indemnities otherwise provided hereunder for such loss as the like indemnities of which the insurer had notice (including the indemnities under this policy) bear to the total amount of all like indemnities for such loss, and for the return of such portion of the premium paid as shall exceed the pro-rata portion for the indemnities thus determined.

SECTION 33. 206.26 (3) and (4) of the statutes are amended to read:

206.26 (3) The expense charge in any one of the 4 succeeding years shall not exceed one and one-half times the amount which would be available under a level distribution of the maximum provision under * * * *sub. (1) (b)*, over the premium paying period of the policy, computed upon the American Experience Table of Mortality with interest at 3 per * * * *cent* per annum.

(4) The expense charge in any year after the fifth year shall not exceed the amount which would be available under a level distribution of the remainder of the maximum provision under * * * *sub. (1) (b)*, over the premium paying period of the policy, computed according to the American Experience Table of Mortality with interest at 3 per * * * *cent* per annum.

SECTION 34. 206.38 (2) of the statutes is amended to read:

206.38 (2) When any such company shall propose to consolidate with any other company, or to enter into any contract of reinsurance, it shall present its petition to the commissioner, setting forth the terms and conditions of such proposed consolidation or reinsurance, and * * * *praying* for approval thereof.

SECTION 35. 215.76 (6) (a) of the statutes is amended to read:

215.76 (6) (a) * * * A finance corporation may issue its debentures in series of not less than \$10,000 upon assigning to the commissioner as trustee for the holders thereof, finance corporation securities.

SECTION 36. 215.76 (18) (c) of the statutes is amended to read:

215.76 (18) (c) Any default described in sub. (4) * * * *(g)* shall be grounds for the commissioner to take possession of and liquidate such defaulting association as provided in s. 215.70.

SECTION 37. 252.015 (2) of the statutes is amended to read:

252.015 (2) Each such branch constitutes a circuit court with all the powers and jurisdiction possessed by circuit courts in circuits having one judge only, and may be designated in all papers and proceedings either by its respective number or by the name of its presiding judge * * * , *except that in the second circuit, branches 11 and 12 shall be designated as the criminal court branches*.

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SECTION 38. 252.017 of the statutes, as created by chapter 315, laws of 1959, and as amended by chapter 685, laws of 1959, is amended, effective the first Monday in January, 1962, to read:

252.017 In circuits in which there are 2 or more branches, the judges may provide for the distribution of the work and assignment of cases among branches except that in the second circuit, branches 11 and 12 shall be designated as the criminal court branches and all cases specified in s. 252.015 for the second circuit criminal branch jurisdiction including all appeals from criminal trials and from ordinance violations from branches 3 * * *, 4 and 12 of the county court of Milwaukee county, and all examinations, recognizances and commitments for trial in case of crimes and misdemeanors not triable in said county court branches shall be assigned by the clerk to those branches and shall be reassigned to another branch only in case of disqualification, illness or vacation of the judges or congestion or vacancies in branches 11 and 12. The senior judge of said second circuit criminal court branches shall allocate the work of said branches and all assignments of work to said branches by the clerk shall be subject to approval by said senior judge. *No grand jury shall hereafter be drawn or summoned for the circuit court of Milwaukee county unless the senior judge of the criminal court branches thereof shall make and file with the clerk an order in writing directing a grand jury to be summoned, and specifying the time at which such grand jury shall appear before the court.*

SECTION 39. 261.02 of the statutes is amended to read:

261.02 The county designated in the complaint shall be the place of trial, unless the same be changed as provided in this chapter, except that every action named in s. 261.01 (1) can be commenced only in the county in which the property or some part thereof is situated * * *

SECTION 40. 262.08 (4) of the statutes, as created by ch. 226, Laws 1959, is amended to read:

262.08 (4) When the defendant has property within this state which has been attached or has a debtor within the state who has been garnished. Jurisdiction under this subsection may be independent of or supplementary to jurisdiction acquired under subs. (1) * * * and (2) * * *

SECTION 41. 263.12 of the statutes is amended to read:

263.12 Except as provided in s. 262.16 (as created by ch. 226, Laws 1959) or 262.17 (applicable to causes of action arising prior to July 1, 1960), if not interposed by demurrer or answer, the defendant waives the objections to the complaint except the objection to the jurisdiction over the subject matter, but such waiver shall not preclude any challenge to the sufficiency of the evidence to establish a cause of action.

SECTION 42. 319.04 (2) (a) of the statutes is amended to read:

319.04 (2) (a) Deposit in a savings account in a bank, the payment of whose accounts in cash immediately upon default of such bank are insured by the federal deposit insurance corporation; or invest in the stock of a savings and loan association, payment of whose stock by substitution of stock in another and similar savings and loan association is insured by the * * * federal savings and loan insurance corporation, in case of default in payment.

SECTION 43. 347.23 (3) of the statutes is repealed.

SECTION 44. 990.01 (42) of the statutes is amended to read:

990.01 (42) "Town" may be construed to * * * include cities, villages, wards or districts.

SECTION 45. Wherever the name "Wisconsin agricultural experiment association" appears in the following sections of the statutes the name "Wisconsin crop improvement association" is substituted. The revisor of statutes shall show the change in printing the statutes: 20.140 (25), 93.07 (4), and 94.80.

SECTION 46. Wherever the term "register of probate" appears in the following sections of the statutes as created by ch. 315, Laws 1959, the term "register in probate" is substituted, effective as of January 1, 1962: 253.015, 253.31, 253.32 and 253.33. The revisor shall show the change in printing the statutes.

Approved April 24, 1961.
