

## TITLE VII.

## Charitable, Curative, Reformatory and Penal Institutions and Agencies.

## CHAPTER 46.\*

## STATE BOARD OF CONTROL AND LOCAL BOARDS.

46.01	State board.	46.14	Reports from state institutions.
46.02	Board meetings and supplies.	46.15	Biennial report of the board.
46.03	General functions of the board.	46.16	General supervision and inspection.
46.035	Wages to prisoners.	46.17	Establishment, approval, and inspection of buildings.
46.04	Officers and employes of the board.	46.18	Board of trustees of county institutions.
46.05	Officers and employes of institutions; police powers; complaints.	46.19	Superintendent, other officers and employes of county institutions.
46.06	Acquisition and disposition of lands.	46.20	Joint county institutions.
46.07	Receipts on behalf of the state or inmates.	46.21	County board of public welfare in populous counties.
46.08	Monthly estimates and audits.	46.23	Board of control, public works, unemployment.
46.09	Purchases; bills and claims.	46.24	Industrial commission, unemployment, panics.
46.10	Settlements between state and counties for maintenance of inmates; property of inmates and relatives chargeable; recovery; collection and deportation counsel; powers; duties.	46.25	Board of control, expenditures to relieve depression.
46.11	Transfer of inmates.	46.26	Industrial commission, depression, labor lists, employment.
46.115	Sick inmates; transfer to state hospital; treatment.	46.27	Inspection of tuberculosis sanatoria transferred to the state board of health.
46.12	Sterilization of defectives.		
46.13	Wassermann tests and other chemical examinations.		

**46.01 State board.** (1) To secure the just, humane and economical administration of the laws concerning the charitable, curative, reformatory, and penal institutions of this state, there is hereby constituted a board of three members, one of whom shall be a woman, which shall be known as the "State Board of Control of Wisconsin." The board shall be a body corporate, and, in addition to the functions expressly authorized by law, shall have all powers necessary to the full and complete performance thereof. Such board shall have a seal, with the words "State Board of Control of Wisconsin," and such other design as the board may prescribe, engraved thereon, by which it shall authenticate its proceedings, and of which the courts shall take judicial notice.

(2) Immediately after the passage and publication of this act, the governor shall, by and with the advice and consent of the senate, appoint such members, but no member so appointed shall be qualified to act until so confirmed. The term of the first appointee shall terminate on the first Monday of February, 1921; the term of second such appointee shall terminate on the first Monday of February, 1923; and the term of the third such appointee shall terminate on the first Monday in February, 1925. In January, 1921, and biennially thereafter, there shall be appointed and confirmed in the same manner, one member for the term of six years from the first Monday in February of such year. Such member so appointed shall hold his office until his successor is appointed and qualified. Any vacancies shall be filled by appointment by the governor for the unexpired term, subject to confirmation by the senate, but any such appointment shall be in full force until acted upon by the senate. Each member shall receive an annual salary of five thousand dollars, and his actual and necessary traveling expenses incurred in the discharge of his official duties.

(3) Each person who accepts such appointment shall take and file the official oath.

(4) Each member of said board shall devote his entire time and attention to the duties of his office.

(5) The governor may at any time remove any member for inefficiency, neglect of duty or malfeasance in office. Before such removal, he shall give such member a copy of the charges against him, and shall fix a time and place when he can be heard in his own defense, which shall be not less than ten days thereafter, and such hearing shall be open to the public. If he shall be removed, the governor shall file in the office of the secretary of state a complete statement of all charges made against him, with a record of all proceedings, and his findings thereon.

(6) The members first appointed under this section shall, within ten days after their

\*Revisor's Note: The state board of control was abolished and the functions thereof transferred to the state department of public welfare by chapter 435, laws 1939. See sections 58.36 and 58.37.

appointment and confirmation, meet at the capitol and organize by electing one of their members president, who shall serve until the second Monday in February, 1921. On the second Monday of February in each odd-numbered year the members shall meet at the office of the board and elect one of their members president, who shall serve for two years, and until his successor is elected. A majority of said members shall constitute a quorum to transact business, and any vacancy shall not impair the right of the remaining members to exercise all the powers of the board.

(7) The board, shall at their first meeting, and at each biennial meeting thereafter, appoint a secretary, fix his compensation, and prescribe his duties.

**46.02 Board meetings and supplies.** Said board shall be provided with a room or rooms in the capitol as its office. The board shall be supplied with all necessary furniture, blanks, blank books and printing. It may subscribe for not more than two hundred copies, in any one year, of the proceedings of the national conference of charities and corrections, and may purchase books or periodicals for its library at a cost not to exceed one hundred dollars per annum.

**46.03 General functions of the board.** The said board shall:

(1) Maintain and govern the Mendota state hospital, the Wisconsin psychiatric institute for the treatment of insane persons, the Winnebago state hospital, the central state hospital, the state prison, and the state prison farms, the Wisconsin state reformatory, the Wisconsin industrial home for women, the Wisconsin industrial school for boys, the Wisconsin industrial school for girls, the Wisconsin institute for blind artisans, the state public school, the Wisconsin home for the feeble-minded, the southern Wisconsin home for the feeble-minded, and all other charitable, curative, reformatory, and penal institutions that may be established or maintained by the state.

(2) Supervise and direct the management and affairs and preserve and care for the buildings, grounds, and all other property pertaining to said institutions, and promote the objects for which they are established.

(3) Take and hold in trust, whenever the board may deem the acceptance thereof advantageous, all property, real or personal, transferred in any manner to the state to be applied to any specified purpose, use or benefit pertaining to any of said institutions or the inmates thereof, and apply the same in accordance with the trust.

(4) On or before July first in each year, make full and complete inventories and appraisals of all the property of each such institution, which shall be recorded and so classified as to show separately the amount, kind, and value of such property.

(5) Make and cause to be printed regulations for its own government, the management of said institutions, and the accomplishment of the purposes for which they are established.

(6) Visit and inspect each of said institutions at least once in each month, either as a body or by some member or members, and ascertain whether the officers, teachers and employes therein are competent and faithful in the discharge of their duties, all inmates properly cared for and governed, all accounts, books and vouchers properly kept, and all the business affairs properly conducted.

(7) Establish and maintain a system and prescribe forms for keeping the books, accounts, and records, and for rendering reports of all said institutions, which shall be as nearly uniform as is practicable.

(8) At the close of each fiscal year, cause all the financial transactions and accounts of or relating to said several institutions to be thoroughly examined by an accountant, pursuant to the provisions of chapter 15 of the statutes; and said accountant shall submit a full and detailed report of such examination to the governor as soon as practicable.

(9) All persons committed to any reform school, prison, parental school, industrial school, home for dependent children or other place of confinement or commitment, shall be allowed spiritual advice and ministration from any recognized clergyman of the denomination or church to which they may respectively belong or did belong prior to their commitment or confinement, which advice and ministration shall be given within the place of confinement in such manner as will secure to such persons the free exercise of their religious belief and under such reasonable rules and regulations as the officers in charge of such place shall prescribe.

(10) The state board of control may give such instruction in occupational therapy or vocational training at such institutions under its control as it shall deem wise; such instruction shall consist of vocational advice and technical training necessary for the proper qualifications of the inmates of such institutions for present and future usefulness.

(11) The board shall promote the enforcement of all laws for the protection of mentally defective, illegitimate, dependent, neglected and delinquent children, except laws whose administration is expressly vested in some other state department. To this end it shall co-operate with juvenile courts and all licensed child welfare agencies and institutions of a public or private character, and shall take the initiative in all matters involving the in-

terests of such children where adequate provision therefor has not already been made or is not likely to be made.

(12) When notified of the birth or expected birth of an illegitimate child, the board shall, through advice and assistance of the mother, or, if necessary, independently of the mother, see to it that the interests of such child are safeguarded, that appropriate steps are taken to attempt to establish the paternity and that there is secured for him the nearest possible approximation to the care, support and education that he would be entitled to if born of lawful wedlock.

(13) The board when so designated by the court having jurisdiction, shall act as trustee to receive and administer funds directed to be paid for the support of any child in any proceeding under chapter 166. [1935 c. 9; 1939 c. 59, 233, 473; 1941 c. 48]

**Note:** See note to 48.07, citing *In re Willard*, 225 W 553, 275 NW 537. Sections 46.27 and 50.09 transfer from the state board of control to the state board of health functions relating to tuberculosis sanatoria and inspection of county and municipal institutions. See revisor's note to chapter 50.

**46.035 Wages to prisoners.** (1) The state board of control may make provision for such pecuniary assistance of prisoners on their discharge, or for the support of their families while in confinement, as may seem proper, by the allowance of moderate wages, to be paid from operation appropriation of the state institution in which they are confined. The sum arising therefrom shall, until the prisoner's final discharge, be under the control of the superintendent or other officer in charge of such institution, the same to be used for the benefit of such prisoner and his family.

(2) Should any such prisoner wilfully escape from any such institution, or become a fugitive from justice, he shall thereby forfeit all earnings credited to his account and remaining under the control of the superintendent or other officer in charge of the institution.

**46.04 Officers and employes of the board.** (1) The board shall appoint a secretary, who shall be a competent and experienced bookkeeper, and shall keep its books, records and accounts under such regulations as it may prescribe. He shall keep a separate book account with each department of the several institutions, including all items purchased or sold on account thereof, and the products thereof, with an estimate of their value, in such manner as to show the relative cost and expenditure on account of each department, and the income thereof; and in case the income or profits of any department shall be made to contribute to the income or support of any other department of any such institution the books shall show the fact.

(2) The board may appoint and fix the compensation of such agents and inspectors as may be necessary to inspect and investigate all institutions subject to its inspection and investigation, such agents and inspectors to make a report of such inspection and investigation to the board.

(3) The board shall appoint and employ one or more officers to be known as field officers who shall carefully look after the welfare of all persons paroled from any state penal institution or from the house of correction of Milwaukee county, or placed on probation pursuant to section 57.01 and subject to its control as provided in section 57.02.

(4) The state board of control shall establish a department of that board, which shall be known and designated as the "Juvenile Department," which department shall exercise such of the powers and duties delegated by law to the state board of control as such board shall prescribe for the proper care, education, protection or reformation of dependent, neglected, mentally defective or delinquent children. The state board of control shall appoint a director and such assistants as may be needed to perform properly the work of such department. The state board of control shall fix the compensation of such director and of such assistants, who shall be paid for their services in the same manner as other employes of said board are paid, and shall be reimbursed their necessary traveling expenses.

(5) The director of the juvenile department and assistants may, by order of the governor upon recommendation of the state board of control, be vested with the same power to take children into custody, to make arrests and serve process in the enforcement of sections 48.35 to 48.42, as probation officers and sheriffs.

**46.05 Officers and employes of institutions; police powers; complaints.** (1) The board shall appoint for each hospital for the insane a superintendent, one assistant physician, a matron, and a steward; for the state reformatory a superintendent, an assistant superintendent, and a steward; for the central state hospital and the industrial school for boys, each a superintendent and a steward; for the industrial home for women a superintendent and a steward, who shall be women; for the industrial school for girls, a superintendent; for the state public school, and the homes for the feeble-minded, each a superintendent, a steward, and a matron; and for the state prison a warden, a steward, a deputy warden, a chaplain, and a matron. The duties of said officers shall be fixed by said board, except as otherwise provided by law; but the board may combine the functions and

duties of superintendent or warden and steward in one person at any of said institutions except the state hospitals for the insane.

(2) The salaries of the officers of said institutions, if not otherwise fixed by law, shall be fixed by the board of control. The steward of each institution shall execute and file an official bond in such sum and with such sureties as said board may prescribe. Said board shall also require any other officer or other person having the possession or custody of any money or property belonging to the state or any institution under its control or supervision to give an official bond, and from time to time to renew the same.

(3) Except as otherwise provided by law the board shall fix the number and prescribe the duties and compensation of subordinate officers, teachers and employes in each such institution, who shall be appointed by the officer in charge subject to approval by the board; and may remove or discharge any officer, teacher or employe who shall be guilty of any malfeasance or misbehavior in his office or employment or of neglect or improper discharge of duty.

(5) The officers, janitors and guards of all the state charitable, curative, penal and reformatory institutions, and of the county asylums for the chronic insane, and the keepers of county homes not located within the corporate limits of any village or city are empowered to summarily arrest all persons within or upon the grounds of such institutions whom they have reasonable cause to believe guilty of any offense against the laws or regulations governing the same, or of any other violation of section 343.463; to arrest any vagrant or idle person who shall refuse to leave any of said institutions or premises when requested so to do; and to take any such offender before any court of competent jurisdiction and cause proper complaint to be made against him; and for such purpose said officers, janitors, guards and keepers shall possess all the powers and authority of police officers and constables.

(6) Said board shall investigate all complaints against any of the institutions hereinbefore designated by name, or against the officers or employes thereof; may summon, compel the attendance of and swear witnesses, and compel the production of books and papers; and may at any time, on its own initiative, investigate the affairs of any such institution in such manner as may seem best. Any written communication or complaint addressed to such board or either of its members by any inmate, employe, or subordinate of any such institution shall be forthwith forwarded as addressed without the breaking of the seal or the reading thereof or other interference by any officer or employe of the institution from which it shall be sent. [1939 c. 59, 233, 473]

**Note:** Under (2), board of control may from time to time change requirements as to amount of surety bond required of particular employe or officer whose bond is not otherwise fixed by law. 26 Atty. Gen. 360.

Sections 46.27 and 50.09, transfer from the state board of control to the state board of health functions relating to tuberculosis sanatoria and inspection of county and municipal institutions. See revisor's note to chapter 50.

**46.06 Acquisition and disposition of lands.** (1) Whenever the said board is authorized by law to acquire land for a specified public purpose and the owner thereof refuses to agree upon the compensation therefor, or whenever by reason of the absence or legal incapacity of the owner, or other cause, such agreement cannot be had without unreasonable delay, the said board may acquire such land by condemnation proceedings in the manner prescribed in chapter 32.

(2) Said board may construct and operate, or may grant license to any railway company to construct and operate, a spur railroad track over lands belonging to the state to connect any of the state institutions under its charge with a general line of railroad, but any license granted in pursuance hereof shall be revocable at the will of the legislature.

(3) The board may convey to any city land not exceeding one acre in extent, to be used by said city for waterworks purposes, for such compensation as said board shall deem reasonable; and may permit any city on such terms as may be just and reasonable to make such exploration on the lands of any state institution under its control as may be needful in locating a water supply for a municipal waterworks.

(4) The board may enter into a contract with the officers of the village of Union Grove, permitting them to connect the sewer system of said village with the main sewer drain of the southern Wisconsin home for feeble-minded and shall fix the value or compensation which shall be received by the state for the granting of such permission. The board shall submit such sewer system plans to the state board of health for its approval.

(5) The board may sell and convey to the city of Waukesha, for a consideration not less than one hundred fifty dollars per acre heretofore offered by resolution of the council of said city and upon such terms and conditions as the board may determine, a portion of the property of the industrial school for boys, not exceeding twenty-seven and thirty-eight hundredths acres, for the construction by said city of a sewage disposal plant. The board may also grant to said city, upon such terms and conditions as it may determine, an easement in said state property for the construction and extension by said

city of its trunk line sewer and electrical power line to the said sewage disposal plant.

(6) The board may sell and convey, for not less than five thousand dollars and upon such terms and conditions as the board may determine, the portion of the property of the industrial school for boys situated between State street in the city of Waukesha and the tracks of the Chicago and Northwestern Railway Company and the Chicago, Milwaukee, St. Paul and Pacific Railway Company, containing two acres, more or less; and the proceeds of such sale shall be paid into the general fund and are hereby reappropriated to the board of control to be used for the acquisition of new land for said school as provided in paragraph (i) of subsection (13) of section 20.17 [Stats. 1929].

(7) For the purpose of providing buildings and improvements on the lands on which is situated the industrial school for girls at Oregon, to make improvements and additions to said buildings, and to enable the construction, financing and ultimate acquisition thereof, the board of control is authorized and empowered to lease said lands and the buildings thereon to a nonprofit sharing corporation or corporations for a term not exceeding fifty years, upon condition that such corporation or corporations shall construct on such lands or portions thereof, such buildings, improvements, additions or equipment as the board of control shall designate or approve, and shall lease the same to the board of control upon satisfactory terms as to the current rental, maintenance and ultimate purchase by the board of control. Revenues derived from services rendered by the board of control through operation of said industrial school for girls may be applied to the payment of such rentals, any surplus which from time to time may accrue to be applied toward the purchase price of the buildings, equipment, additions or improvements, or accumulated for subsequent application upon the purchase price. The board of control is authorized and empowered to enter into such leases or contracts with such corporation or corporations for the above purpose as such board shall deem for the best interests of the industrial school for girls at Oregon; provided, that nothing herein contained shall authorize the board of control to incur any debt for the construction of such buildings, equipment, additions or improvements. The plans for buildings and all contracts made pursuant to this section shall before they are finally adopted or become effective be submitted to the state engineer and the governor and have their written approval. All leases made pursuant to this section shall before they are finally adopted or become effective be submitted to the governor and have his written approval. Such buildings, equipment, additions and improvements so erected on said lands and devoted to board of control purposes, and the leasehold interest in such lands, shall be exempt from taxation.

(8) Subject to the approval of the emergency board as to the price the board may sell and convey that portion of the property of the Wisconsin state reformatory lying in the southwest corner of the institution holdings between the main highway and the Fox river and south of the main property located in Brown county described as follows: Beginning on the east bank of the Fox river in township twenty-three north, range twenty-one east, where the north line of private claim number twenty-one intersects the same; thence south along the east bank of Fox river to a point approximately two hundred and ninety-six and four-tenths feet south of the north line of private claim number twenty-three; thence east nine hundred forty and five-tenths feet to the west line of United States highway number forty-one; thence north and east approximately two hundred and ninety-six and four-tenths feet along the west line of United States highway number forty-one to the south line of private claim number twenty-two; thence along the west line of United States highway number forty-one, one thousand ninety-five and six-tenths feet; thence west six hundred thirteen and eight-tenths feet to the center of a former slough; thence north and east through the center of this former slough to the north line of private claim number twenty-one; thence west to the place of beginning, and containing thirty-five acres more or less; and the proceeds of such sale shall be paid into the general fund and used by the board for the acquisition of new land or for other capital purposes, or both, for said institution as provided in subsection (25) of section 20.17.

(9) The board is authorized and directed to convey, for street or highway purposes, without receiving any consideration therefor, to the town of Allouez, Brown county, that part of the south one-half of private claim nineteen on the east side of the Fox river, town of Allouez, Brown county, Wisconsin described as follows: Beginning at the point where the center line of said private claim intersects the east line of Riverside drive, said point being the southwest corner of the plat of Indian hill running thence south sixty-four degrees, thirty-two minutes, fifty-six seconds east ten hundred fifty-five and nine-tenths feet to the east line of Ducharme lane; thence south twenty-six degrees, twenty-one minutes, thirty-four seconds west thirty feet; thence north sixty-four degrees, thirty-two minutes, fifty-six seconds west ten hundred fifty-nine and six-tenths feet to the east line of said Riverside drive; thence north thirty-three degrees, twenty-three minutes, thirty-four seconds east thirty and three-tenths feet to the point of beginning. Such town is

given a reasonable time to utilize the tract for the purposes for which conveyed. In the event that within such reasonable time the tract is not so utilized or in the event that it is so utilized and then such use is abandoned then the title to the tract shall revert to the state.

(10) The board may grant to Waukesha county, upon such terms and conditions as it may determine but which shall not be less than the terms and conditions expressed in a resolution adopted by the county highway committee of the Waukesha county board, dated the 30th day of August, 1938, an easement for highway purposes in two acres, more or less, of the property of the industrial school for boys, and is authorized to accept in payment for same a deed to property now a part of the roadway known as county trunk X, and which under the terms of said resolution of the county highway committee of Waukesha county is to be fenced on the center line of said highway. [1937 c. 386; 1939 c. 31, 417]

**46.07 Receipts on behalf of the state or inmates.** (1) All moneys received by each and every person for or in behalf of the board of control or any state institution under said board, shall be paid within one week of receipt, into the general fund of the state treasury and except as expressly provided otherwise shall be available for state account generally. Such deposits derived from the binder twine plant and other prison industries shall be accompanied by a schedule showing the various amounts received from each person or persons, together with the residence of each.

(2) All money or property paid or delivered to any officer or employe of either such institution for the benefit of any inmate thereof shall forthwith be paid or transmitted to the steward thereof, who shall enter the same upon his books to the credit of the person or persons for whose benefit it was designed. Such money or property shall be used only under the direction and with the approval of the superintendent or warden of the institution and for the benefit of the person or persons for whom it was designed. If the money of any inmate of any state institution under the supervision of the board of control shall remain uncalled for for one year or more after the discharge, death, or unauthorized departure of the inmate from such institution, the superintendent shall deposit such uncalled for funds in the general fund as a nonappropriated receipt. Any such inmate who can satisfy the state board of control, within five years of the date the deposit is made in the general fund, as to the validity of his claim to funds so deposited shall be repaid, and the board of control shall direct the secretary of state to draw his warrant in favor of the person so entitled to the funds, which the secretary of state shall do and charge to the appropriation made by subsection (10) of section 20.06 of the statutes. If any such inmate leaves personal property uncalled for at an institution for one year or more, the superintendent shall sell the property and the proceeds shall be deposited in the general fund as a nonappropriated receipt. Any such inmate who can satisfy the board of control, within five years of the date of the deposit of the proceeds of the sale of his personal property in the general fund, as to the validity of his claim to funds so deposited shall be repaid, and the board of control shall direct the secretary of state to draw his warrant in favor of the person so entitled to the funds, which the secretary of state shall do and charge to the appropriation made by subsection (10) of section 20.06 of the statutes. This section shall not apply to earnings credited to prisoners under the provisions of section 46.035. [1937 c. 181 s. 3]

**46.08 Monthly estimates and audits.** Said board, once in each month, with the aid of such officers of the several institutions as it may require, shall prepare an estimate of the expenditures which it will be necessary to make for each institution during the month next ensuing; which estimate, made out in detail, shall be certified and filed with the secretary of the board, and a duplicate thereof with the steward of each institution. No member of said board and no officer of either institution shall incur any liability without such estimate being first made. Said board shall also fix a regular time, as often as once in each month, for auditing all accounts and charges against the institutions under its charge.

**46.09 Purchases; bills and claims.** (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.

(3) On the receipt of property purchased he shall compare the articles received with the bills therefor, and see that they are correct as to quality, quantity and the price charged,

and to every bill which shall be so found he shall attach a certificate setting forth the fact that he has made such examination and has proven the extensions and footings, and that the bill is in all respects just and correct. All such bills shall be laid before the board at its next regular meeting for allowance, and no bill or account shall be audited nor any appropriation made for the payment thereof which shall not first be so certified and presented, and verified by the affidavit of the claimant or his agent.

(4) No bills incurred by said board in the management of such institutions shall be paid until they have been audited by it, and a list of such bills as allowed, containing the names of the persons in whose favor they are allowed, the purpose and institution for which they were incurred, shall be made and certified by the president or secretary of the board and filed with the secretary of state as often as once in each month. Warrants therefor in favor of each claimant shall be drawn on the state treasurer and delivered to the secretary of said board, who shall transmit them to the payees.

**46.10 Settlements between state and counties for maintenance of inmates; property of inmates and relatives chargeable; recovery; collection and deportation counsel; powers; duties.** (1) Whenever any person shall be committed or admitted to any charitable, curative, reformatory or penal institutions of the state, or of any county except to tuberculosis patients provided for in chapter 50 and subsection (2) of section 58.06, the court, judge, magistrate or board before whom such matter is pending shall upon proper evidence determine the legal settlement of such person, and shall certify the same to the superintendent of the institution to which such person is committed or admitted. The county in which said legal settlement is located shall be chargeable with the support and maintenance in the manner and to the extent provided by law. If it is found that said person does not have a legal settlement in any town, village or city, in this state, the state may be chargeable with all of the support and maintenance, provided the said court, judge, magistrate or board submits a transcript of the testimony taken for such a finding with respect to legal settlement to the state board of control, and the same is approved by said board and is so certified to the superintendent of the institution to which such person is committed or admitted. Nothing in this section or elsewhere shall prevent a recovery of the actual per capita cost of such maintenance by the state board of control or by the county in counties having a population of five hundred thousand or more, or prohibit the acceptance by said board of any payment of the cost of maintenance, or a part thereof, from such a person or anyone in his behalf.

(1a) Whenever any person shall apply for admission to any institution provided for in chapter 50 and subsection (2) of section 58.06, the court, judge, magistrate or board before whom such matter is pending shall give due notice of the hearing to the district attorney of such county who shall attend said hearing; and the said court, judge, magistrate or board shall upon proper evidence determine the legal settlement of such person and his general financial ability. If the evidence does not disclose property sufficient to save the county free from the expense of his support, the said court, judge, magistrate or board shall ascertain by further proof the residence and financial ability of any person, if any, liable for such support, pursuant to law, and shall order proper proceedings to be brought for the enforcement of such liability; but if the evidence discloses that the legal settlement of the person so examined and found destitute is within some other county within the state, such hearing shall be continued and the district attorney of such other county shall be duly notified and shall appear at such continued hearing. At the conclusion of said hearing the court, judge, magistrate or board shall determine the chargeability for the support of such person and certify such determination to the superintendent of the institution; and thereupon such person shall be admitted.

(2) On the first day of July in each year the state board of control shall prepare a statement of the amounts due from the several counties to the state, pursuant to law, for the maintenance, care and treatment of inmates at public charge in state or county charitable, curative, reformatory and penal institutions. Such statement shall cover the preceding fiscal year and shall specify the name of every inmate in each state institution whose support is partly chargeable to some county, and the name of every inmate in each county institution whose support is wholly chargeable in the first instance to the state and partly chargeable over to some county; and shall further specify, with respect to each inmate, his legal settlement, the number of weeks for which support is charged, the amount due the county for any recovery of maintenance, and the amount due to the state from such county, itemized as to board, clothing, dental, burial, surgical and transfer. The president and secretary of the board shall certify said statement, file it with the secretary of state, and mail a duplicate to the clerk of each county charged; and thereupon the secretary of state shall charge to the several counties the amounts so due, which shall be certified, levied, collected and paid into the state treasury with the state tax as a special charge.

(3) On the first day of July in each year the superintendent or other officer in charge of each county charitable, curative, reformatory and penal institution shall prepare a statement of the amount due from the state to the county in which such institution is located, pursuant to law, for the maintenance, care and treatment therein of inmates at public charge on forms supplied by the state board of control. Such statement shall cover the preceding fiscal year and shall specify the name of each inmate whose support is partly chargeable to the state, or wholly chargeable in the first instance to the state and partly chargeable over to some other county; and shall further specify, with respect to each inmate, his legal settlement, the number of weeks for which support is charged, and the amount due to the county from the state, itemized as to board, clothing, dental, burial, surgical and transfer. Said statement shall be verified by affidavit by the officer making it and certified by the trustees of the institution to the state board of control, for examination and approval and a duplicate thereof shall be forwarded by said board to the county clerk of the county involved. The said board shall give proper credit of the amount due the county for any recovery of maintenance and, when approved, the president and secretary of the board shall certify said statement to the secretary of state, who shall credit the aggregate amount found due on the state tax next accruing from said county.

(4) Whenever any inmate in any charitable, curative, reformatory, or penal institution of the state or of any county is improperly charged to the state or to any county, the attorney-general on behalf of the state, or the district attorney of such county on its behalf, may make written application to the state board of control for relief from such charge. The application shall designate the county to which such inmate is chargeable, or if it be claimed that he is chargeable to the state it shall be so stated. Said board shall give reasonable notice to the parties interested of the time and place at which and when they may be heard. Such application may be supported by affidavits and other proper evidence. If upon the hearing said board shall grant the relief asked for it shall order a proper charge against the county chargeable, or against the state, as the case may be; and from and after the making of such order such inmate's support shall be charged accordingly; but the county named in such order may, in like manner apply to said board for relief from the burden thereby imposed, in which case the matter shall be heard and disposed of as herein provided.

(5) Any party aggrieved by any such order may, within one year from the making thereof, appeal to the circuit court of Dane county, by serving a notice of the appeal upon the president or secretary of said board, the district attorney of any county which is a party in interest and upon the attorney-general. Within twenty days after the service of such notice the secretary of said board shall transmit to the clerk of such court all the original papers used upon the hearing before it, together with a certified copy of all the proceedings, orders and decisions made thereon. When a complete determination of the controversy cannot be had without the presence of other parties than those to the original proceeding the court shall order such parties to be brought in, and for that purpose may make such order as it may deem necessary. Such appeal shall be tried by a jury unless such mode of trial is waived, in the manner in which actions originally brought in the circuit court are tried. The jury shall find a special verdict naming the county to which the support of such inmate is chargeable or whether it is chargeable to the state, and judgment shall be entered accordingly. An appeal may be taken from such judgment to the supreme court as in other cases. The prevailing party in either court shall be entitled to the usual costs. Upon the rendition of final judgment said board shall make the proper charges or credits on its books and certify the same to the secretary of state.

(6) If any error has been or shall be committed in the accounts between the state and any county in making charges for the support of any inmate in any charitable, curative, reformatory, or penal institution, or in the amount certified to any county as due and to be assessed upon it on account of such support, and such error shall be certified by the state board of control, the secretary of state shall correct such error by a proper charge or credit on the state tax next accruing.

(7) The actual capita cost, as defined by rule of the state department of public welfare, of maintenance furnished an inmate of any state institution, or any county institution in which the state is chargeable with all or a part of the inmate's maintenance, except as to tuberculosis patients provided for in chapter 50 and subsection (2) of section 58.06, may be recovered by the state department of public welfare, or in counties having a population of 500,000 or more by the county, from such person, or from his estate, or may be recovered from the husband or wife of such person. The sworn statement of the collection and deportation counsel of the state department of public welfare, or the superintendent of such institution, for the purpose of showing the names, time in the institution, and the actual per capita cost of maintenance furnished, shall be prima facie evidence of such facts. The state department of public welfare shall make adjustment with the several counties, for



their proper share of all moneys recovered, in the settlement with the counties provided in subsections (2) and (3) of this section.

(8) The state board of control shall appoint an attorney at law, to be known as the "collection and deportation counsel," who shall make all reasonable and proper efforts, but shall give due regard to others who may be lawfully dependent upon such property for support, to recover the cost of maintenance furnished inmates except as to tuberculosis patients provided for in chapter 50 and subsection (2) of section 58.06, and take such steps as may be necessary to arrange for their deportation. Said counsel shall investigate the financial condition of the inmates now in the state and county institutions, except as to tuberculosis patients provided for in chapter 50 and subsection (2) of section 58.06, or heretofore or hereafter committed or admitted thereto, and of the relatives liable for the maintenance of such inmates, in order to determine the ability of any inmate or any such relative to make payment in whole or in part for the maintenance of said inmates, and shall investigate the legal settlement status of all said inmates in order to determine which cases, if any, are subject to deportation.

(9) Such counsel shall have power to subpoena witnesses, take testimony under oath, and to examine any public records relating to the estate of an inmate or of a relative liable for his support or maintenance, shall have authority to appear for the state board of control in any and all collection and deportation matters arising in the several courts; and may with the approval of the state board of control, enter into reciprocal agreements with the proper officials of other states relative to deportation of nonresidents.

(10) Said counsel may delegate any of such authority given, to proper assistants as shall be appointed by the state board of control and may exercise such other powers and duties delegated by law to the state board of control as such board may prescribe.

(11) The district attorney or his assistants in counties having a population of five hundred thousand or more shall, in matters pertaining to the recovery of the cost of maintenance of inmates in county and state institutions having a legal settlement in such county, have the same authority as granted in this section to the collection and deportation counsel.

(12) The collection of all delinquent special rate or pay accounts at the Wisconsin general hospital shall be vested with the said collection and deportation counsel who shall make all reasonable and proper efforts to collect the same and who shall have authority to appear in any of the courts of the state for that purpose. All moneys collected shall be deposited weekly with the state treasurer who shall credit fifteen per cent thereof to the appropriation made by paragraph (c) of subsection (1) of section 20.17, and the balance thereof to the appropriation made by paragraph (a) of subsection (10) of section 20.41 of the statutes. [1935 c. 336; 1939 c. 65, 535; 1941 c. 67]

**Note:** Statute authorizing state board of control's recovery of actual per capita cost of maintenance furnished inmates of state and county institutions, from estate of deceased inmate, vested discretion as to collection solely in board. Estate of Sletto, 224 W 178, 272 NW 42.

Subsections (7), (8) and (9), Stats. 1939, do not impose a fixed or absolute liability against a relative so as to attach to his estate, but require that an investigation and determination be made during his lifetime, and hence where this was not done during the lifetime of the wife of an insane person the state had no claim for maintenance against the estate of the deceased wife. Estate of Hahto, 236 W 65, 294 NW 500.

A county court has only such powers as are conferred by statute. Neither a county court nor a guardian is authorized to reserve funds for future burial expenses from the estate of a living insane ward as against proper claims of creditors of the ward. Sec. 319.32 applies only on the death of the ward, and hence does not affect the preferred status of the state's claim under 46.10 (7), Stats. 1939, against the estate of a living insane ward for care and maintenance furnished in a public institution. Guardianship of Henes, 236 W 635, 296 NW 60.

The state's claim against the estate of a deceased father for maintenance furnished

an insane son in a state institution was properly disallowed where no determination of liability of the father for such maintenance had been made before his death. Estate of Laus, 237 W 12, 296 NW 84.

County may not recover its share paid for support of insane person committed to central state hospital for criminal insane where only means such person has were derived from his total disability compensation as World War veteran paid under federal law. 22 Atty. Gen. 157.

Error in charging expenses of inmate of public institution to county may be corrected under (4), (5) and (6), and statute of limitations does not run thereon. 24 Atty. Gen. 360.

Board of control may compromise state claims for care and maintenance of incompetents in state or county institutions. 24 Atty. Gen. 794.

Either board of control or county board can recover for state its share of cost of maintenance of patient in Wisconsin general hospital. Effect is to be given to both 46.10 (7) and 142.08 (1). 24 Atty. Gen. 797.

Words "any state institution" in (7) include Wisconsin general hospital; collections made on its behalf in which county has some amount due may be credited against state tax next accruing from county under (3). 25 Atty. Gen. 585.

**46.11 Transfer of inmates.** (1) Whenever any inmate lawfully committed to any state or county penal, reformatory, curative, or charitable institution shall be removed in a case authorized by law from any one of these institutions to any other of them by the state board of control the superintendent of the institution from which any such removal is made shall notify the court or judge who committed such inmate of the fact of such removal.

(2) The board may designate in the order of removal, the superintendent of the in-

stitution from which or to which such removal is made or any other discreet citizen, to make such removal. The person so designated shall receive no mileage or per diem for making such removal, but shall be paid his actual and necessary traveling expenses and those of the person removed and of any necessary assistant, to be adjusted by the board and charged to the current expense fund of the institution from which such removal is made; but if some county is chargeable with any portion of the expense of maintaining the person so removed such county shall be charged therewith, and such charge shall be adjusted in the same manner that charges for the maintenance of such inmates are adjusted.

**46.115 Sick inmates; transfer to state hospital; treatment.** (1) The board of control of the state of Wisconsin shall make application to the board of regents of the university, for the admission to the state of Wisconsin general hospital of any inmate of any state institution under the board of control, or of any person committed to or applying for admission thereto, who is afflicted with any disease, malady, deformity or ailment, which can probably be remedied, or which can be advantageously treated by proper medical or surgical care, at the state of Wisconsin general hospital, in all cases where such person cannot receive proper care at the institution to which he has been committed or to which he has made application for admission. Said application shall be accompanied by the report of the physician of said institution or by a physician appointed by the board of control, in the same form as reports of other physicians for admission to patients to said hospital.

(2) The net cost of such treatment shall be at the same rate charged the county for county patients, and shall be chargeable one-half to the appropriation for operation of the institution from which the said patient is sent and one-half to the state. The said board may likewise pay out of the operation fund to the institution the necessary traveling expenses, including the expenses for an attendant when such person cannot travel alone to and from the hospital. Payments for the treatment of such patients are to be made by the board of control to the regents of the university for such portion as is chargeable to the operation fund of any institution, and such portion as is chargeable to the state shall be certified and paid as provided in subsection (1) of section 142.08.

**46.12 Sterilization of defectives.** (1) The state board of control is hereby authorized to appoint, from time to time, one surgeon and one alienist, of recognized ability, whose duty it shall be, in conjunction with the superintendents of the state and county institutions who have charge of criminal, insane, feeble-minded and epileptic persons, to examine into the mental and physical condition of such persons legally confined in such institutions.

(2) Said board of control shall at such times as it deems advisable submit to such experts and to the superintendent of any of said institutions the names of such inmates of said institution whose mental and physical condition they desire examined, and said experts and the superintendent of said institution shall meet, take evidence and examine into the mental and physical condition of such inmates and report said mental and physical condition to the said state board of control.

(3) If such experts and superintendent unanimously find that procreation is inadvisable it shall be lawful to perform such operation for the prevention of procreation as shall be decided safest and most effective; provided, however, that the operation shall not be performed except in such cases as are authorized by the said board of control.

(4) Before such operation shall be performed, it shall be the duty of the state board of control to give at least thirty days' notice in writing to the husband or wife, parent or guardian, if the same shall be known, and if unknown, to the person with whom such inmate last resided.

(5) The said experts shall receive as compensation a sum to be fixed by the state board of control, which shall not exceed ten dollars per day and expenses, and such experts shall only be paid for the actual number of days consumed in the performance of their duties.

(6) The record taken upon the examination of every such inmate shall be preserved and shall be filed in the office of said board of control at Madison, Wisconsin, and semi-annually after the performing of the operation, the superintendent of the institution wherein such inmate is legally confined, shall report to said board of control the condition of such inmate and the effect of such operation upon such inmate.

(7) The state board of control shall report biennially in its regular biennial report the number of operations performed under the authority of this section and the result of such operations.

**46.13 Wassermann tests and other chemical examinations.** The board of control is hereby authorized to make necessary arrangements with the laboratory of the psychiatric institute of Mendota for the giving of the Wassermann test to any person confined in any state or county institution, and of making such test for any practicing physician of this state who makes application therefor in behalf of any resident of this state, free of

charge. Arrangements shall also be made with said institute for the making of chemical examinations of the cerebrospinal fluid for any practicing physician of this state free of charge.

**46.14 Reports from state institutions.** (1) The officer in charge of each state institution under the control of said board shall make a monthly report to the board, comprising an itemized statement of all receipts and disbursements, and of the daily number of inmates, officers, teachers, and employes, and the wages paid to each.

(2) On the first day of July in each even-numbered year the officer in charge of each such institution shall make a report to said board, covering the preceding biennial fiscal term, comprising a summarized statement of the management of every department of the institution and of all receipts and disbursements, and such other information as may be required by the board.

**46.15 Biennial report of the board.** (1) On or before December first in each even-numbered year the board shall make to the governor a report of its proceedings during the preceding biennial fiscal term, with such recommendations as it may deem fit respecting the subjects in its charge or under its supervision, and including also: A detailed statement of all expenditures from the state treasury on behalf of the board and all state and county charitable, curative, reformatory, and penal institutions; a summary of the results of all its visits, inspections, and investigations in respect to matters committed to it, and of all statistical information collected by it, properly tabulated; and a concise statement showing the condition of said institutions.

(2) Said report shall further show, with respect to each state institution:

(a) The kind and estimated value of all the property in its charge at the commencement of the biennial term;

(b) The kind and cost of all permanent additions and improvements made;

(c) The amount of money received from all public and private sources;

(d) The receipt of all money and property from private sources for the benefit of inmates, and the disposition made thereof;

(e) The amount and estimated value of all products of the farm, shop, industries and other sources of support and supply in its charge and the cost and application thereof;

(f) The number of all inmates maintained at the commencement and at the close of each fiscal year, the average number during the year, and the average cost of maintenance per capita per week, based upon the total amount expended during the year for subsistence and for repairs and renewals of property, including the net value of all products of the farm and garden consumed at the institution and of all labor expended in the care and repair of the property but excluding the cost of permanent additions to and improvements of property and private contributions for inmates;

(g) Such further facts relating to the financial condition as the board may deem necessary for the information of the legislature;

(h) An estimate of the expenses for the ensuing biennial fiscal term;

(i) Such parts of the reports of the officers in immediate charge as the board shall deem proper to lay before the legislature.

**46.16 General supervision and inspection.** (1) The state board of control shall:

(a) Investigate and supervise all the charitable, curative, reformatory, and penal institutions of every county and other municipality, all detention homes for children and all industrial schools, hospitals, asylums and institutions, organized for the purposes set forth in section 58.01, and familiarize itself with all the circumstances affecting their management and usefulness. Tuberculosis sanatoriums are excepted from the provisions of this paragraph.

(am) Have power to license, revoke licenses of and exercise supervision over all child welfare agencies and the placement of children in foster homes, and grant and authorize the granting of permits to foster homes, as provided in sections 48.35 to 48.42. In the discharge of this duty the state board of control may inspect all records of any child welfare agency and visit all institutions conducted by such agency and any foster home in which children are placed, at any reasonable time.

(b) Visit the county homes in the state, and ascertain how many persons of each sex, how many insane, idiotic, deaf and dumb, or blind persons, and how many children are supported in each, at what cost and under what circumstances affecting their health, comfort, morals, and education; collect statistics of the number and cost of support, and other important facts, of the poor relieved at public expense outside of county homes; and collect such other information as may throw light on the adequacy and efficiency of existing laws for the support and relief of the poor, and the causes operating to increase or diminish pauperism in the state.

(c) Visit the jails, municipal prisons, houses of correction, workhouses, and all other places in which persons convicted or suspected of crime or insane persons are confined,

and ascertain their arrangement for the separation of the hardened criminals from juvenile offenders and persons suspected of crime or detained as witnesses; collect important statistics concerning the inmates, their treatment, employment, and reformation; and collect information of all other important facts and considerations affecting the increase or diminution of crime and insanity.

(d) Visit each of the institutions hereinbefore referred to and inquire into their methods of treatment, instruction, government, and management of their inmates; the official conduct of their trustees, managers, directors, superintendents, and other officers and employes; the condition of the buildings, grounds, and all other property pertaining to said institutions, and all other matters and things pertaining to their usefulness and management; and recommend to the officers in charge such changes and additional provisions as it shall deem proper.

(e) Inspect each such institution annually, or oftener if necessary; and, whenever directed by the governor, make special investigation into their past or present management, or anything connected therewith, and report to him the testimony taken, the facts found, and conclusions thereon.

(f) Inform the governor, and the district attorney of the county in which the institution is located, of any violation of law disclosed in any investigation of any such institution.

(2) All trustees, managers, directors, superintendents and other officers or employes of the institutions aforesaid shall at all times afford to every member of said board, or its agents, unrestrained facility for inspection of and free access to all parts of the buildings and grounds and to all books and papers of such institutions and shall give, either verbally or in writing, such information as the board may require; and if any such person shall offend against this requirement he shall forfeit not less than ten nor more than one hundred dollars. Each member of the board is authorized to administer oaths and take testimony; and may cause depositions to be taken pursuant to law. All expenses of such investigations, including fees of officers and witnesses, shall be charged to the appropriation for the state board of control. [1939 c. 233, 473]

**Note:** See revisor's note to chapter 50; and sections 46.27 (2) and 50.09 (3).

**46.17 Establishment, approval and inspection of buildings.** (1) The state board of control, with the advice and approval of the state chief engineer, shall ascertain and fix reasonable standards and regulations for the construction, repair and maintenance of county homes, county hospitals, asylums for the insane, houses of correction, workhouses, jails, and lockups, with respect to their safety, sanitation, and adequacy and fitness for the needs of the community which they are to serve.

(2) The establishment of, purchase of the site, and erection of buildings for any such institution shall be subject to the approval of the state board of control.

(3) No building for any such institution shall be constructed until the plans and specifications therefor have been approved by said board, or its secretary when directed by the board, and the state chief engineer as conforming with such standards and all other requirements of law.

(4) Before the occupancy of any such building, and semiannually thereafter, the board shall cause such building to be inspected with respect to its safety, sanitation, adequacy and fitness, and report to the authorities conducting said institution any deficiency found, stating the nature of the deficiency, in whole or in part, and ordering the necessary work to correct it or that a new building shall be provided. If within six months thereafter such work be not commenced, or not completed within a reasonable period thereafter, to the satisfaction of the board, it shall suspend the allowance of any state aid for, and prohibit the use of such building for the purposes of, said institution until said order shall have been complied with. [1939 c. 233, 473]

**Note:** Where proper authorities fail to comply with order of board of control under (4) with respect to improvement or replacement of jail, such order may be enforced by court action. 21 Atty. Gen. 81.

Board of control has authority to approve use of building for county sanatorium, which

building has previously been constructed as isolation hospital. 21 Atty. Gen. 996.

The provisions for the construction of county tuberculosis sanatoriums is in 50.06 as revised pursuant to sections 46.27 (2) and 50.09 (3). See revisor's note to chapter 50.

**46.18 Board of trustees of county institutions.** (1) The management of every county home, asylum for the chronic insane, tuberculosis hospital or sanatorium, house of correction, or workhouse, established by any county whose population is less than two hundred and fifty thousand, shall be controlled and directed, subject to regulations approved by the county board, by a board of trustees composed of three electors of the county, elected by ballot by the county board. At least six months before completion of the buildings for any such institution the county board shall, at an annual or special meeting, elect three trustees whose terms shall begin at once and end, respectively, on the first Monday of the second, third, and fourth January next thereafter. At its annual meeting

in every subsequent year the county board shall elect one trustee for a term of three years to begin on the first Monday of January next thereafter. Any vacancy in the board of trustees shall be filled for the unexpired term, at any meeting of the county board; but the county chairman may appoint a trustee to fill such vacancy until such action by the county board.

(2) No member of the county board shall serve as such trustee during the term for which he was elected. No such trustee shall have any other lucrative office or employment in the county government; nor be eligible, during the term for which he was elected, to the office of superintendent of the institution in his charge with the exception of a pension and relief board member.

(3) Any trustee may be removed from office for misconduct or neglect, by an affirmative vote of two-thirds of the members of the county board, on due notice in writing and hearing of the charges preferred against him.

(4) Each trustee shall take and file the official oath, and execute and file an official bond to the county, the amount of which shall be determined by the county board, and the sufficiency of the sureties whereof shall be approved by the chairman of said board. He shall be reimbursed his traveling expenses necessarily incurred in the discharge of his functions, and shall receive such compensation as shall be fixed by the county board, unless otherwise provided by law.

(5) The trustees shall organize by the election of a president. The superintendent of the institution shall be ex officio secretary of the board.

(6) At least once each month the trustees shall audit all claims against the county incurred on behalf of said institution, when presented to them verified under oath by the claimant or his agent, and when allowed the president and secretary shall certify such claims to the county clerk, who shall thereupon issue county orders for their payment. They may sue and defend, in the name of the county, any cause of action involving the interest of said institution, and may employ counsel for that purpose. All receipts on account of said institution shall be paid into the county treasury by the superintendent of the institution within one week after receipt.

(7) (a) The fiscal year of each such county institution shall commence with July first of each year and end with June thirtieth of the following year.

(b) The state board of control shall formulate a uniform system of keeping all the books, accounts and records, and shall prescribe and furnish blanks for a uniform system of the reports of said institutions, which shall definitely and accurately show, with respect to each institution: The itemized gross earnings and expenses; the net earnings or expenses; a classified summary of all products of the farm sold, consumed, and on hand; the amounts invested in land, buildings, improvements, and personal property; the depreciation of the personal property; the per capita cost per week of maintaining the inmates, and the items upon which such per capita cost is computed; the total expense or saving to the county on account of the maintenance of the institution; and such other information as may be required by the board in order to give a full understanding of the investment, operation, and management of the institution and the financial results of such management.

(c) The trustees of each such institution shall cause said system of accounting and reporting to be installed, under the supervision of the board of control, and shall conduct its business in conformity therewith; and the board of control shall from time to time inspect, examine, and audit the books, records, documents, accounts, and transactions of each institution.

(d) On the first day of July of each year the trustees shall prepare a report covering the preceding fiscal year, concerning the matters specified in paragraph (b), and shall transmit one copy to the state board of control, one copy to the clerk of the county in which said institution is located, and keep one copy on file at the institution. Such report shall be accompanied by an inventory of all properties on hand on the last day of the fiscal year, an estimate of the receipts and expenditures for the ensuing fiscal year, and the reports of the superintendent and visiting physician, if any, of the institution.

(8) The county board shall annually appropriate for operation and maintenance of each such institution, in addition to the amount appropriated for construction and improvement of grounds and buildings, a sum not less than the amount of state aid estimated by the trustees to accrue to said institution; or such lesser sum as may be estimated by the trustees to be necessary for operation and maintenance.

(9) The county board may provide that the board of trustees of any such institution already existing shall be, ex officio, the board of any other such institution. The county board may provide that the county park commission be, ex officio, the board of trustees of the county workhouse. [1931 c. 71; 1935 c. 229; 1939 c. 75]

**Note:** Board of asylum trustees may use for construction of building only money appropriated by county board for that purpose. 20 Atty. Gen. 130.

County board has power to direct disbursement or to appropriate funds earned by county hospital for insane for benefit of institution. 21 Atty. Gen. 59.

(2) does not prevent county board from naming auditing committee of its own mem-

bers to check on poor relief. 24 Atty. Gen. 75.

Member of board of trustees of county asylum and poor farm may not receive per diem compensation for time spent in assisting acting superintendent in performance of latter's duties. Limitation, if any, upon compensation which member of board of trustees of county asylum and poor farm may receive in year on per diem basis must be found in county ordinance establishing rate of compensation. 29 Atty. Gen. 118.

**46.19 Superintendent, other officers and employes of county institutions.** (1) Every such county institution shall be managed, pursuant to regulations prescribed by the board of trustees, by a superintendent, who shall be appointed by and be removable at the pleasure of said board.

(2) The trustees shall fix the compensation and prescribe the duties of the superintendent, who shall execute and file an official bond with sureties approved and in an amount fixed by the trustees.

(3) Except as otherwise provided by law, the superintendent shall, subject to the approval of the trustees, appoint, fix the designation and compensation of, and prescribe the duties of all necessary additional officers and employes of said institution, and may remove them at his discretion, subject to the county civil service law.

**Note:** Where county board has not abolished board of trustees of county institutions that board, under 46.18 and 46.19, has sole authority to appoint superintendent of county workhouse. Appointment of such officer by county board is void. If appointment

to such office is made by board of trustees which involves problem of housing and maintenance, matter of providing same lies wholly within discretion of board of trustees provided it acts under regulations approved by county board. 28 Atty. Gen. 19.

**46.20 Joint county institutions.** (1) Any two or more counties may jointly, by majority vote of all the members of each county board, provide for a county home, asylum for the chronic insane, tuberculosis hospital or sanatorium, house of correction, or workhouse, which shall be established, maintained, and operated pursuant to all the statutes relating to the establishment, maintenance, and operation of similar institutions, respectively, by any single county whose population is less than two hundred and fifty thousand, except as otherwise provided in this section; and in all respects, except as herein specified, each such institution shall be the county institution of each of the counties so joining.

(2) The county board of each such county shall elect three of its members to represent the county in a joint committee to select the site, anywhere within either of said counties, and prepare the plans and specifications of the buildings, for such institution; and said joint committee shall be vested with all functions, relative to the establishment of such institution, possessed by the county board relative to like county institutions.

(3) Upon approval of the site, plans and specifications, as provided in section 50.06 as to tuberculosis sanatoriums and section 46.17, as to other institutions the joint committee shall report to the several county boards the estimated cost of said site and buildings, and the amount thereof chargeable to each county on the basis set forth in paragraph (a) of subsection (6), appending to each report a copy of the plans and specifications and all matter relating to said site and buildings; and if the said report shall be approved by each county board, the joint committee shall purchase said site and cause said buildings to be erected in accordance with the plans and specifications.

(4) The functions of the joint committee shall terminate upon completion of said buildings; and the board of trustees thereupon elected shall be composed of two electors from each county when two counties join, and of one elector from each county in all other cases; which trustees, except those elected at first elections, shall hold during terms of four years in the former case, and as many years as there are counties joining in the other cases. Trustees elected at first elections shall hold for terms beginning at once and so ending that the terms of one member only will expire on the first Monday of each succeeding January, beginning with January of the second year thereafter; which terms shall be allotted to the respective trustees at their first meeting. The county board of each county joining shall at an annual meeting elect a successor to any trustee from such county whose term will expire on the first Monday of the next following January. The trustees shall have the qualifications and functions and be subject to the limitations and restrictions of trustees elected pursuant to section 46.18. They shall be reimbursed their traveling expenses necessarily incurred in the discharge of their functions, and shall receive compensation similar to that of the trustees, respectively, of like county institutions; and if the county board is empowered to fix the latter, the compensation of the joint trustees shall be fixed by joint action of the county boards.

(5) All receipts on account of such institution shall be paid into the treasury of the county in which said institution is located.

(6) Prior to the election of the trustees the joint committee, and thereafter the board of trustees, shall audit all claims against said counties on account of such institution; and

all such claims shall, in the first instance, be certified to and paid by the county in which said institution is located, subject to apportionment and adjustment among the several counties as follows:

(a) All expenditures for the site, buildings, furniture, equipment, and permanent improvements, after deducting all receipts therefor except county appropriations, shall immediately upon payment be apportioned by the clerk of the county in which the institution is located and certified to the clerks of the other counties, on the basis of the percentage which the valuation of the taxable property in each county bears to the valuation of the aggregate taxable property in all said counties, as determined pursuant to section 70.57.

(b) All expenditures for repairs, maintenance, and operation, after deducting all receipts therefor except county appropriations, shall be so apportioned for each month, on the first day of the next succeeding month, on the basis of the percentage which the aggregate cost of keeping the inmates at public charge from each such county bears to the aggregate cost of keeping the inmates at public charge from all such counties, adopting as the unit of cost the total average cost per capita per week of keeping all the inmates, at public charge and otherwise, in said institution.

(c) Immediately upon receipt of such certified apportionment each such other county shall pay over to the county in which said institution is located its proportion of said expense.

(7) If any net profit shall arise from the operation of said institution it shall be apportioned among the several counties on the basis prescribed in paragraph (b) of subsection (6); and the county in which said institution is located shall pay over to the other counties, respectively, their proportions of such profit.

(8) The trustees shall transmit one copy of their annual report of the tuberculosis sanatorium to the state board of health; and one copy of the report of other county institutions to the state board of control, one copy to the clerk of each joint county, and shall file one copy at the institution. It shall be itemized with respect to the several counties and shall, in addition to the requirements of subsection (7) of section 46.18, include an itemized statement showing the amounts of the receipts and profits credited and expenditures charged to the several counties for the past fiscal year, and an estimate of such amounts for the ensuing fiscal year; and each county board shall provide for meeting its estimated share of said expenditures.

(9) At any time after the organization of any such institution, any additional county or counties may join in the support and conduct thereof upon payment of such equitable proportion of the original cost of its establishment, and any joint county may withdraw upon such terms, as may be agreed upon among the county boards of the counties interested; and thereupon the board of trustees of such institution shall be reorganized, in such manner as may be determined by the county boards of the participating counties, to conform to the provisions of subsection (4).

(10) Any county or counties maintaining a tuberculosis sanatorium may convey said property or any part thereof or any interest therein to any other county or counties upon such terms and conditions as the respective county boards thereof shall agree by a majority vote of all the members of each of said county boards. [1939 c. 233, 473]

**Note:** See revisor's note to chapter 50; and sections 46.27 (2) and 50.09 (3).

**46.21 County board of public welfare in populous counties.** (1) **APPOINTMENT; ORGANIZATION; COMPENSATION.** (a) In each county having a population of five hundred thousand or more there is created a board of five members which shall be known as the county board of public welfare, hereinafter referred to as the board. The governor shall appoint one of such members, the county board of supervisors by a majority vote of the members-elect thereof shall choose three of such members from among the electors of the county, and one member from the membership of said county board of supervisors. All members shall hold office for the term of four years. Appointments shall be made on the basis of recognized and demonstrated interest in and knowledge of the problems of public welfare. Each of the three dominant political parties as shown by the vote for governor in the last preceding general election in such county shall be represented on said board in the elections made thereto by the county board. The present members of the board of trustees of any such county appointed and acting under the provisions of chapter 584, laws of 1921, shall continue as members of the county board of public welfare herein created, to hold office until the expiration of their terms as same existed at the time of their appointment to such board of trustees, their successors thereafter each to be appointed for the term of four years as hereinbefore provided, provided that the present county board member of such board of trustees shall continue to hold office as the county board member of such county board of public welfare until the next organization meeting of the county board of supervisors in said county, at which time his successor shall be chosen for the term of four years. A majority of the board shall constitute a

quorum for the exercise of the power and the authority conferred upon it, and each member of the board shall take and file an official oath, and shall execute and file an official bond with sureties approved and in a reasonable sum fixed by such county board of supervisors.

(b) Each member of the board shall receive as compensation for his services such sum as the county board of supervisors shall provide, to be paid as other county officers are paid, provided that the member chosen from the county board shall receive a reasonable compensation to be fixed by the county board in addition to his regular salary.

(c) Said board shall annually elect a chairman, vice chairman and secretary. The vice chairman shall serve in the absence of the chairman. The secretary shall be responsible for and publish full stenographic minutes of every meeting of said board. Upon the written request of the secretary the director of institutions and departments shall provide said secretary with such stenographic help as is necessary to comply with the provisions of this section. The county board shall provide said board with suitable quarters for the transaction of its business.

(2) DUTIES AND RESPONSIBILITIES OF THE BOARD. (a) Such board shall be charged with supervising the operation, maintenance and improvement in each county, by the director of institutions and departments, of the county hospital, dispensary-emergency unit of said hospital, mental hygiene clinic, infirmary, department of outdoor relief, home for dependent children, hospital for chronic insane, hospital for mental diseases, tuberculosis hospital and preventorium, county agent's department farm, service departments, and all buildings and land used in connection with any or all of such institutions. The powers and duties of the board shall be advisory and policy forming only, and not administrative or executive. Such board shall be without authority to adopt policy changes that would increase expenditures beyond budget limitations for the fiscal year, as fixed by the county board of supervisors. Proposed policy changes shall, in all instances, be presented to the director and the finance committee of the county board at the time the department's budget for the ensuing year is being considered.

(b) The board shall appoint a director of institutions and departments pursuant to the provisions of sections 16.31 to 16.44. Such appointment shall be made on the basis of recognized and demonstrated public interest in and knowledge of the problems of and institutional management of public welfare, and with due regard to training, experience, executive and administrative ability and efficiency, and general qualification and fitness for performing the duties of the office. The manager of county institutions, appointed and acting under the provisions of chapter 584, laws of 1921, shall constitute the director as defined in this section. Such director shall file an official oath and bond in such sum as shall be fixed by the county board of supervisors.

(c) Provisions shall be made in the organization of the office of director for the devolution of his authority in the case of his temporary absence, illness or other disability to act.

(3) DUTIES AND RESPONSIBILITIES OF THE DIRECTOR. (a) All of the administrative and executive powers and duties of managing, operating, maintaining and improving the several institutions and departments specified in paragraph (a) of subsection (2) of this section and such other institutions and departments as may at any future time be placed under the jurisdiction of such board of public welfare and director by the county board of supervisors, shall be vested in such director, to be administered by him under the rules promulgated and subject to the policies and in accordance with the principles established by such county board of public welfare. The salary of such director shall be fixed by the county board of supervisors, to be paid as salaries of other county officers are paid.

(b) The director, in consultation with department heads, and subject to the approval of the board of public welfare, shall establish such rules and regulations as may be necessary in the management and operation of such institutions and departments.

(c) Contracts and purchases of the director shall be subject to an inspection either by the proper committee of the county board of supervisors or such other agency as such county board of supervisors may select, provided, however, that nothing herein contained shall preclude the setting up of a central purchasing department for all county purchases, if so determined by such board of supervisors.

(d) Rules and regulations adopted by, policies established, and in general all acts and decisions of such director when approved by such board of public welfare shall be subject to change by the county board of supervisors, but only by a two-thirds vote of the members-elect thereof.

(4) DEPARTMENT HEADS, OFFICERS AND EMPLOYEES. (a) The director shall appoint, pursuant to sections 16.31 to 16.44, and subject to the approval of the county welfare board, department heads who shall, under the direction of said director, have the care and management respectively of the several institutions and departments specified in paragraph (a) of subsection (2) of this section and such others as may be placed under



the jurisdiction of said director and board by the county board of supervisors. Upon recommendation of the director, approved by the board, the county board of supervisors may place more than one institution or department under the management and direction of one department head.

(b) Each such department head shall take and file his official oath and execute and file an official bond with sureties approved and in such sum as shall be fixed by such board of public welfare.

(c) Each of such department heads shall, subject to the approval of said director, have power to appoint, discipline and remove, under the provisions of sections 16.31 to 16.44, all officers and employes in his department.

(d) The county treasurer shall be ex-officio the treasurer of all such institutions and departments, and shall keep separate accounts of all moneys appropriated or otherwise received for the aforesaid institutions and departments and pay the same out upon orders issued by the county clerk and countersigned by the county auditor on vouchers certified to the clerk by the director.

(e) All department heads, officers, and employes appointed and acting under the provisions of chapter 584, laws of 1921, shall continue to hold their respective offices and employments as defined by this section.

(5) ADMISSION OF INMATES FOR PAY. (a) Any resident of this state, not indigent, may be received into the infirmary, to be treated, cared for, and maintained upon such terms and conditions and at such rate of pay as may be established by the board; but indigent and destitute persons shall have preference in admission to and care in such institution.

(b) The provisions of sections 49.10 to 49.13 shall govern the support and maintenance of persons in any of the institutions in charge of said director.

(6) REPORTS; APPROPRIATIONS; EXPENDITURES. (a) On the first day of July of each year, or within thirty days thereafter, said director shall render an annual report together with the reports of his department heads, including an itemized statement of receipts and disbursements for the preceding calendar year. Such director shall maintain the uniform system of books, accounts, records and reports prescribed by the state board of control, conforming in all respects with the provisions of subsection (7) of section 46.18.

(b) The county board shall make sufficient appropriation annually for the support, maintenance, salaries, repairs and improvements to said institutions; and such appropriations so made shall be used for such purposes and subject to the order of such director in such manner as the regulations of the board of public welfare shall provide; but neither the director nor such board shall incur any expense nor make any contract for new buildings or additions to present buildings, or for the purchase of land, without first being authorized so to do by the county board, nor until the county board has appropriated or provided for the money to defray such expense.

(7) CLINICS. The director is hereby empowered to establish and conduct clinics in connection with the county hospital, subject to such rules and regulations as the board of public welfare may prescribe.

(8) POWERS OF BOARD; EMERGENCY HOSPITAL. The board of public welfare, as aforesaid, upon authorization of the county board, shall have and exercise the following additional powers:

(a) To establish and maintain a public health and medical dispensary and conduct same as may be proper and necessary for the preservation of the public health and the prevention of disease in such county.

(b) To establish and maintain in connection with such county hospital an emergency unit or department for the treatment, subject to such rules and regulations as may be prescribed by such board of public welfare, of persons in said county who may meet with accidents or be suddenly afflicted with illness not contagious; provided, however, that medical care and treatment shall only be furnished in such unit or department until such time as the patient may be safely removed to another hospital or to his place of abode, or regularly admitted to said county hospital.

(c) To establish and maintain in connection with the institutions and departments under the control of such board, a training school for nurses and to purchase and take over all property, and to assume all obligations, and to conduct any training school now operated in connection with said institutions or departments or any of them.

(d) To establish and maintain in connection with or separate from the county hospital a unit or department for the treatment, subject to such rules and regulations as may be prescribed by said board of public welfare, of persons in said county who may be afflicted with contagious diseases. [1939 c. 177]

46.22 [Renumbered section 66.50 (1) by 1937 c. 432]

46.225 [Repealed by 1937 c. 432]

**46.23 Board of control, public works, unemployment.** It shall be the duty of the board of control to ascertain from the various departments and state institutions tentative plans for such extension of public works of the state as shall be best adapted to supply increased opportunities for advantageous public labor during periods of temporary unemployment; together with estimates of the amount, character and duration of such employment, and the number of employes that could profitably be used therein, together with rates of wages and such other information as the board of control may deem necessary.

**46.24 Industrial commission, unemployment, panics.** It shall be the duty of the industrial commission, in co-operation with the immigration commissioner, to keep constantly advised of industrial conditions throughout the state as affecting the employment of labor; and whenever it shall be represented to the said industrial commission by the governor of the state, or the said industrial commission shall otherwise have reason to believe that a period of extraordinary unemployment caused by industrial depression exists in the state, it shall be the duty of the said industrial commission immediately to hold inquiry into the facts relating thereto, and to find and report to the governor whether in fact such condition does exist.

**46.25 Board of control, expenditures to relieve depression.** In the event that the industrial commission shall report to the governor a condition of extraordinary unemployment caused by industrial depression does in fact exist in the state, the state board of control is hereby authorized to make such disposition of all funds to be used for said purposes among the several institutions and departments for such extension of the public works of the state under the charge or direction thereof, including the purchase of materials and supplies necessary therefor, as shall, in the judgment and discretion of the state board of control be best adapted to advance the public interest by providing the maximum of public employment, in relief for the existing conditions of extraordinary unemployment, consistent with the most useful, permanent, and economic extension of the works aforesaid.

**46.26 Industrial commission, depression, labor lists, employment.** It shall be the duty of the industrial commission, immediately upon publication of a finding that a period of extraordinary unemployment due to industrial depression exists throughout the state, to cause to be prepared by the various institutions and departments approved lists of applicants for public employment and to secure from such applicants full information as to their industrial qualifications and to submit the same to the board of control. Preference for employments under the provisions of sections 46.23 to 46.26, inclusive, shall be extended first to citizens of this state, second, to citizens of the United States at the time of making application; and last to aliens who are residents of this state at the time of making such application.

**46.27 Inspection of tuberculosis sanatoria transferred to the state board of health.**  
(1) The inspection division of the state board of control and all functions, powers and duties vested in said board to investigate and supervise tuberculosis hospitals and sanatoria under paragraph (a) of subsection (1) of section 46.16, and all functions, powers and duties vested in said board to investigate and supervise sanitary conditions in county and municipal charitable, curative, reformatory and penal institutions under paragraphs (a) and (c) of subsection (1) of said section 46.16, are transferred to and vested in the state board of health.

(2) The revisor of statutes is directed to make the necessary changes in the language of the statutes so as to indicate the transfers provided for in this section. [1939 c. 233, 473]