CHAPTER 66.

GENERAL MUNICIPALITY LAW.

66.01 Home rule; manner of exercise. (1) Pursuant to section 3 of article XI of the constitution, the method of determination of the local affairs and government of cities and villages shall be as prescribed in this section.

(2) (a) A "charter ordinance" is any ordinance which enacts, amends or repeals the whole or any part of the charter of a city or village, or makes the election mentioned in subsection (4) of this section. Such charter ordinance shall be so designated, shall require a two-thirds vote of the members-elect of the legislative body of such city or village, and shall be subject to referendum as hereinafter prescribed.

(b) Every charter ordinance which amends or repeals the whole or any part of a city or village charter shall designate specifically the portion of the charter so amended or repealed, and every charter ordinance which makes the election mentioned in subsection (4) of this section shall designate specifically each enactment of the legislature or portion thereof, made inapplicable to such city or village by the election mentioned in subsection (4) of this section.

(3) Every enactment, amendment or repeal of the whole or any part of the charter of any city or village shall be published in the official newspaper of such city or village, or if there be none then in a newspaper having a general circulation in the city or village, shall be recorded by the clerk in a permanent book kept for that purpose, with a statement of the manner of its adoption, and a certified copy thereof shall be filed by said clerk with the secretary of state. The secretary of state shall keep a separate index of all charter ordinances and shall on August 1, 1931, issue a cumulative list of all charter ordinances filed prior to July 1, 1931, arranged alphabetically by city and village and summarizing each ordinance, and annually thereafter shall issue such a list of charter ordinances filed during the 12 months prior to July 1.

(3a) Every charter ordinance enacted pursuant to section 66.01, which charter ordinance was adopted by the governing body prior to December 31, 1944, and which has also been published prior to such date in the official newspaper of such city or village, or if there be none in a newspaper having general circulation therein, shall be valid as of the date of such original publication notwithstanding the failure to publish such ordinance as provided in section 10.43 (5).

(4) Any city or village may elect in the manner prescribed in this section that the whole or any part of any laws relating to the local affairs and government of such city or village other than such enactments of the legislature of state-wide concern as shall with uniformity affect every city or every village shall not apply to such city or village, and thereupon such laws or parts thereof shall cease to be in effect in such city or village.

(5) Any city or village by charter ordinance may make the election mentioned in subsection (4) of this section, or enact, amend or repeal the whole or any part of its charter; but such ordinance shall not take effect until sixty days after its passage and

publication. If within such sixty days a petition signed by a number of electors of the city or village equal to not less than seven per cent of the votes cast therein for governor at the last general election shall be filed in the office of the clerk of said city or village demanding that such ordinance be submitted to a vote of the electors it shall not take effect until submitted to a referendum and approved by a majority of the electors voting thereon. Said petition and the proceedings for its submission shall be governed by subsections (2) to (5) of section 10.43.

(6) Any charter ordinance may be initiated in the manner provided in subsections (1) to (5) of section 10.43, but alternative adoption thereof by the legislative body shall be subject to referendum as provided in subsection (5) of this section.

(7) Any charter ordinance may be submitted to a referendum by the legislative body, in the manner prescribed in subsections (4) and (5) of section 10.43, without initiative petition, and shall become effective when approved by a majority of the electors voting thereon.

(8) Every charter, charter amendment or charter ordinance enacted or approved by a vote of the electors shall control and prevail over any prior or subsequent act of the legislative body of the city or village. Whenever the electors of any city or village by a majority vote shall have adopted or determined to continue to operate under either chapter 62, 63, or 64, or shall have determined the method of selection of members of the governing board, the question shall not again be submitted to the electors, nor action taken thereon within a period of two years. Any election to change or amend the charter of any city or village, other than a special election as provided in subsection (4) of section 10.43 shall be held at the time provided by statute for holding regular city elections.

(9) The legislative body of any city or village, by resolution adopted by a two-thirds vote of its members-elect may, and upon petition complying with section 10.43 shall, submit to the electors in the manner prescribed in subsections (4) and (5) of said section the question of holding a charter convention under one or more plans proposed in said resolution or petition.

(10) The ballot shall be in substantially the following form:

	YES	NO
Shall a charter convention be held?	☐	☐

If a charter convention be held what plan do you favor?

Plan 1	Plan 2	
☐	☐	Repeat for each plan proposed

Mark an [X] in the square under the one you vote for.

If a majority of the electors voting thereon vote for a charter convention such convention shall be held pursuant to the plan favored by a majority of the total votes cast for all plans. If no plan receives a majority, the two plans receiving the highest number of votes shall be again submitted to the electors and a convention shall thereupon be held pursuant to the plan favored by a majority of the votes cast.

(11) Such charter convention shall have power to adopt a charter or amendments to the existing charter. Such charter or charter amendments adopted by such convention shall be certified, as soon as may be, by the presiding officer and secretary thereof to the city or village clerk and shall thereupon be submitted to the electors in the manner prescribed in subsections (4) and (5) of section 10.43, without the alternative mentioned therein, and shall take effect only when approved by a majority of the electors voting thereon.

(12) Nothing in this section shall be construed to impair the right of cities or villages under existing or future authority to enact ordinances or resolutions other than charter ordinances.

(14) All laws relating to public instruction, pursuant to sections 1, 2, 3, 4 and 5 of article X of the constitution, remain and shall continue in force for the establishment, administration and government of the district schools as heretofore, until amended or repealed by the legislature. The term "district schools" as here used, in addition to common schools includes, among others, any and all public high schools, trade or vocational schools, auxiliary departments for instruction of pupils who are deaf or of defective speech or blind, and truancy or parental schools.

(15) The provisions of section 62.13 and chapter 589 of the Laws of 1921 and chapter 423, Laws of 1923, and chapter 586 of the Laws of 1911, shall be construed as an enactment of state-wide concern for the purpose of providing a uniform regulation of police and fire departments.

History: 1951 c. 261 s. 10.

The authority of the legislature over a municipal corporation is supreme, subject to such limitations as may be prescribed by the constitution. Municipal corporations are

political subdivisions of the state, created as convenient agencies for exercising such governmental powers of the state as may be entrusted to them, and whatever is given to them by statute may be modified or taken away by statute, except as to vested rights acquired under it, and except as to a statute which is in the nature of a contract on the part of the legislature, and except as to limitations prescribed by the state constitution. Madison Metropolitan Sewerage Dist. v. Committee, 260 W 229, 50 NW (2d) 424.

The charter ordinances provided for must deal with local affairs, which annexation proceedings are not, in that annexation affects not only the pepole of the annexing city or village but also the people in the area proposed to be annexed and the people in the town losing such area. Wauwatosa v. Milwaukee, 266 W 59, 62 NW (2d) 718.

66.02 Consolidation. Any town, village, or city may be consolidated with a contiguous town, village, or city, by ordinance, passed by a two-thirds vote of all the members of each board or council, fixing the terms of the consolidation and ratified by the electors at a referendum held in each municipality. The ballots shall bear the words, "for consolidation," and "against consolidation," and if a majority of the votes cast thereon in each municipality shall be for consolidation, the ordinances shall then be in effect and shall have the force of a contract. The ordinance and the result of the referendum shall be certified to the clerk of the consolidated corporation and by him recorded and certified as provided in section 61.11 if a village; or subsection (6) of section 62.06 if a city; to the county clerk, if a town and the certification shall be preserved as provided in subsection (6) of section 60.05, section 61.11 and subsection (6) of section 62.06, respectively. Consolidation shall not affect the pre-existing rights or liabilities of any municipality and actions thereon may be commenced or completed as though no consolidation had been effected.

In an action to contest the validity of proceedings culminating in a consolidation or absorption of the town of Lake into the city of Milwaukee, the absorbed town of Lake was not a proper party defendant, so that the action was properly dismissed as against it. Toman v. Lake, 268 W 239, 67 NW (2d) 356.

Proceedings for the annexation of parts of a town to a city, pending when proceedings to consolidate the town and city are started, become ineffective when consolidation is acomplished. Milwaukee v. Sewerage Comm. 268 W 342, 67 NW (2d) 624.

6.80 applies to the referendums provided for in 66.02, and 6.23 (8) applies to the form of the question submitted. Milwaukee v. Sewerage Comm. 268 W 342, 67 NW (2d) 624.

This section is not an unconstitutional delegation of legislative power to towns. The law is complete, to become operative upon favorable action by the local board and electors. The procedures are sufficiently described and are uniform. Milwaukee v. Sewerage Comm. 268 W 342, 67 NW (2d) 624.

Assuming the validity of the consolidation of the town of Granville into the city of Milwaukee, the territories in the town, which were subject to annexations to the village of Brown Deer, were not left without any government during the interval between the effective date of the consolidation and the effective dates of the annexations but went into the city with the rest of the town until the annexations became effective, at which times, respectively, they were transferred from the city to the village; the consolidation, if valid, operating on such territories subject to the defeasance occurring when the annexations, which had priority, took effect. Brown Deer v. Milwaukee, 274 W 50, 79 NW (2d) 340.

In determining priorities between an annexation and a consolidation, the first procedural step in a consolidation is the adoption of an ordinance. Brown Deer v. Milwaukee, 274 W 50, 79 NW (2d) 340.

Especially in view of a severability clause in the consolidation ordinance, the consolidation of the town of Granville into the city of Milwaukee was not wholly invalidated by the mere fact that the prior proceedings for the annexation of certain territories in the town of Granville to the village of Brown Deer prevented such consolidation from becoming fully or permanently effective in respect to portions of the Granville territory, but such consolidation, if otherwise valid, was effective to the full extent consistent with the outstanding priorities. Brown Deer v. Milwaukee, 274 W 50, 79 NW (2d) 340.

The consolidation of the town of Granville into the city of Milwaukee did not operate to affect the boundaries of or to detach territory from a joint union high school district which constituted a separate and distinct municipal entity composed of all of the territory in the town of Granville and in the village of Brown Deer. Brown Deer v. Milwaukee, 274 W 50, 79 NW (2d) 340.

66.021 Annexation of territory. (1) DEFINITIONS. In this section, unless the context clearly requires otherwise:

(a) "Owner" means the holder of record of an estate in possession in fee simple, or for life, in land or real property, or a vendee of record under a land contract for the sale of an estate in possession in fee simple or for life but does not include the vendor under a land contract. A tenant in common or joint tenant shall be considered such owner to the extent of his interest.

(b) "Assessed value" means the value for general tax purposes as shown on the tax roll for the year next preceding the filing of any petition for annexation.

(c) "Real property" means land and the improvements thereon.

(d) "Petition" includes the original petition and any counterpart thereof.

(2) METHODS OF ANNEXATION. Territory contiguous to any city or village may be annexed thereto in the following ways:

(a) *Direct annexation.* A petition for direct annexation may be filed with the city or village clerk signed by:

1. A majority of the electors residing in such territory and either a. the owners of one-half of the land in area within such territory, or b. the owners of one-half of the real property in assessed value within such territory; or

2. If no electors reside in such territory, by a. the owners of one-half of the land in

area within such territory, or b. the owners of one-half of the real property in assessed value within such territory.

(b) *Annexation by referendum.* A petition for a referendum on the question of annexation may be filed with the city or village clerk signed by 20 per cent of the electors residing in the territory and 50 per cent of the owners of the real property either in area or in assessed value.

(3) NOTICE. (a) The annexation shall be initiated by the publication of a notice of intention to circulate an annexation petition in a newspaper of general circulation in the territory proposed for annexation. The notice shall contain:

1. A statement of intention to circulate an annexation petition.

2. A description of the territory proposed to be annexed, sufficiently accurate to determine its location.

3. The name of the city or village to which the annexation is proposed.

4. The name of the town or towns from which the territory is proposed to be detached.

5. The name and post-office address of the person causing the notice to be published who shall be an elector or owner in the area proposed to be annexed.

(b) The person who causes the notice to be published shall serve a copy of such notice, together with a copy of the scale map required under sub. (4) (a), upon the clerk of each municipality affected within 5 days of the date of publication of the notice. Such service may be either by personal service or by registered mail with return receipt requested.

(4) PETITION. (a) The petition shall state the purpose of the petition and contain a description of the territory proposed to be annexed, sufficiently accurate to determine its location, and have attached thereto a scale map reasonably showing the boundaries of such territory and the relation of the territory to the municipalities involved.

(b) No person who has signed a petition shall be permitted to withdraw his name therefrom. No additional signatures shall be added after a petition is filed.

(c) The circulation of the petition shall commence not less than 10 days nor more than 20 days after the date of publication of the notice of intention to circulate. The annexation petition shall be void unless filed within 6 months of the date of publication of the notice.

(5) REFERENDUM. (a) *Notice.* Within 30 days after the filing of the petition, the common council or village board may reject the petition and if rejected no further action shall be taken thereon. Failure to reject the petition shall obligate the city or village to pay the cost of any referendum favorable to annexation. If the petition is not rejected the clerk of the city or village with whom the annexation petition is filed shall give written notice thereof by personal service or registered mail with return receipt requested to the clerk of any town from which territory is proposed to be detached and shall give like notice to any person who shall file a written request therefor with the clerk. Such notice shall indicate whether the petition is for direct annexation or whether it requests a referendum on the question of annexation. If the notice indicates that the petition is for a referendum on the question of annexation, the town clerk shall give notice as provided in par. (c) of a referendum of the electors residing in the area proposed for annexation to be held within 30 days after the date of personal service or mailing of the notice required under this paragraph. If the notice indicates that the petition is for direct annexation, no referendum shall be held unless within 30 days after the date of personal service or mailing of the notice required under this paragraph, a petition requesting a referendum is filed with the town clerk signed by 20 per cent of the electors residing in the area proposed to be annexed. If such a petition is filed, the clerk shall give notice as provided in par. (c) of a referendum of the electors residing in the area proposed for annexation to be held within 30 days of the receipt of the petition and shall mail a copy of such notice to the clerk of the city or village to which the annexation is proposed. Any referendum shall be held at some convenient place within the town to be specified in the notice.

(b) *Clerk to act.* If more than one town is involved, the city or village clerk shall determine as nearly as is practicable which town contains the most electors in the area proposed to be annexed and shall indicate in the notice required under par. (a) such determination. The clerk of the town so designated shall perform the duties required hereunder and the election shall be conducted in such town as are other elections conducted therein.

(c) *Publication of notice.* The notice shall be published in a newspaper of general circulation in the area proposed to be annexed on the publication day next preceding the referendum election and one week prior to such publication.

(d) *How conducted.* The referendum shall be conducted by the town election officials but the town board may reduce the number of such officials for that election. The

ballots shall contain the words "For annexation" and "Against annexation" and shall otherwise conform to the provisions of s. 6.23 (8). The election shall be conducted as are other town elections in accordance with ch. 6 insofar as applicable.

(e) *Canvass; statement to be filed.* The election inspectors shall make a statement of the holding of the election showing the whole number of votes cast, and the number cast for and against annexation, attach thereto their affidavit and immediately file it in the office of the town clerk. They shall file a certified statement of the results in the office of the clerk of each other municipality affected.

(f) *Costs.* If the referendum is against annexation, the costs of the election shall be borne by the towns involved in the proportion that the number of electors of each town within the territory proposed to be annexed, voting in the referendum, bears to the total number of electors in such territory, voting in the referendum.

(g) *Effect.* If the result of the referendum is against annexation, all previous proceedings shall be nullified. If the result of the referendum is for annexation, failure of any town official to perform literally any duty required by this section shall not invalidate the annexation.

(6) QUALIFICATIONS. Qualifications as to electors and owners shall be determined as of the date of filing any petition. All qualified electors residing in the territory proposed for annexation on the day of the conduct of a referendum election shall be entitled to vote therein.

(7) ANNEXATION ORDINANCE. (a) An ordinance for the annexation of the territory described in the annexation petition may be enacted by a two-thirds vote of the elected members of the governing body within 60 days after the date of filing with the city or village clerk of the petition for annexation or of the referendum election if favorable to annexation. Such ordinance may temporarily designate the classification of the annexed area for zoning purposes until the zoning ordinance is amended as prescribed in s. 62.23 (7) (d). Before introduction of an ordinance containing such temporary classification, the proposed classification shall be referred to and recommended by the plan commission. The authority to make such temporary classification shall not be effective when the county ordinance prevails during litigation as provided in s. 59.97 (4a).

(b) The ordinance may annex the territory to an existing ward or may create an additional ward.

(c) The annexation shall be effective upon enactment of the annexation ordinance. The board of school directors in any city of the first class shall not be required to administer the schools in any territory annexed to any such city until July 1 following such annexation.

(8) FILING REQUIREMENTS; SURVEYS. (a) The clerk of a city or village which has annexed territory shall file immediately with the secretary of state 4 certified copies of a certificate and plat and one such copy with the register of deeds, signed by the clerk, describing the territory which was annexed. Failure to file shall not invalidate the annexation but the duty to file shall be a continuing one. The clerk shall certify annually to the secretary of state and to the register of deeds a legal description of the total boundaries of the municipality as those boundaries existed on December 1, unless there has been no change in the 12 months preceding.

(b) The secretary of state shall forward 2 copies of the certificate and plat to the state highway commission and one copy to the department of taxation.

(c) Any city or village may direct a survey of its present boundaries to be made, and when properly attested the survey and plat may be filed in the office of the register of deeds in the county in which the city or village is located, whereupon the survey and plat shall be prima facie evidence of the facts therein set forth.

(9) VALIDITY OF PLATS. Where any annexation is declared invalid but prior to such declaration and subsequent to such annexation a plat has been submitted and has been approved as required in s. 236.10 (1) (a), such plat shall be deemed validly approved despite the invalidity of the annexation.

(10) ACTION. (a) No action may be commenced after 60 days from the effective date of any annexation to contest the validity thereof upon any grounds whatsoever, whether denominated procedural or jurisdictional. The validity of any annexation shall, 60 days after the effective date thereof, be conclusively established and may not be attacked collaterally or otherwise questioned.

(b) Any action contesting an annexation except actions pending on November 17, 1957 shall be placed at the head of the circuit court calendar for an early hearing. The time within which a writ of error may be issued or an appeal taken to obtain review by the supreme court of any judgment or order in any action or proceeding contesting an

annexation is limited to 30 days from the date of notice of the entry of such judgment or order.

History: 1957 c. 676.

Note: Chapter 676, Laws of 1957, provides: This act shall not apply to any annexation, incorporation, consolidation or detachment commenced prior to the effective date hereof. Such proceedings may be continued in accordance with any applicable statute repealed by this act notwithstanding its repeal.

Having taken no steps to adopt the provisions of 62.07 (1) (Stats. 1951), the city of Milwaukee necessarily proceeded in annexation proceedings under the provisions of 926-2. The city was required by 925-18 to submit the proposition to a vote of the electors of the area proposed to be annexed, so that the failure to submit such a referendum was fatal to the proceedings. Wauwatosa v. Milwaukee, 259 W 56, 47 NW (2d) 442.

The taking of the first public procedural step required by the applicable statute and not the assumption of jurisdiction by the annexing municipal body begins annexation proceedings and determines which of 2 conflicting proceedings has precedence. Annexation proceedings of the city of West Allis, governed by 62.07 (1) (a) (Stats. 1951), were instituted by the posting of a notice of circulation of a petition for annexation, which was the first procedural step required by that statute, and annexation proceedings of the city of Milwaukee, governed by 926-2, were instituted by the filing of a petition for annexation, which was the first procedural step required by that statute, so that where the posting of such notice of circulation was prior in point of time, and both cities were attempting to annex the same area, the proceedings of the city of West Allis had precedence. Greenfield v. Milwaukee, 259 W 77, 47 NW (2d) 292.

Where a petition for annexation of territory was filed with the city clerk without showing that the signers represented the number of electors and property owners required by 62.07 (1) (a) (Stats. 1951), and the city's annexation commission made a report to the city council advising that it could not consider the annexation of this area on the basis of such petition because of the greater number of signatures on a subsequently filed counterpetition, the council by adopting such report determined in effect that the original petition for annexation bore insufficient signatures to comply with the annexation statute, which determination was binding on the city as against the rights of the petitioners for incorporation as a village who, after such determination, proceeded to take steps for incorporation by complying with all statutory requirements therefor, and had filed their petition for incorporation with the court prior to any steps being taken to revive the annexation proceedings. In re Town of Preble, 261 W 459, 53 NW (2d) 187.

Where the notice required by 62.07 (1) (Stats. 1951) was properly posted and published, and the proofs thereof, although not filed with the city clerk, were presented to the judiciary committee of the common council, to which committee the annexation petition was referred, and such proofs were in the office of the community-development department in the city hall, the statute was sufficiently complied with. Wauwatosa v. Milwaukee, 266 W 59, 62 NW (2d) 718.

In the absence of affirmative proof before the common council of a city as to the validity of the entire annexation proceeding, the court must determine whether a valid annexation petition was pending before the council. A petition which was in fact signed by a majority of the electors and by the owners of more than one half of the real estate in area within the territory sought to be annexed was sufficient under 62.07 (1) (Stats. 1951), and it was not invalid for lack of certainty in reciting in the alternative that the signers constituted a majority of the electors and "either" the owners of one half of the real estate in area "or" one half of the real estate in assessed value within the territory proposed to be annexed. Wauwatosa v. Milwaukee, 266 W 59, 62 NW (2d) 718.

Where notices relating to the proposed annexation of a certain area to a city were posted on December 30, 1952, and a petition for incorporation of a portion of the same area was filed with the circuit court on September 22, 1953, and, at the time of the incorporation hearing on November 3, 1953, it appeared that numerous matters in the annexation proceeding had not been completed and that another year would be required to complete the annexation proceeding, it is held that the city although acting in good faith, did not act within reason in the prosecution of the annexation proceeding, and that, therefore, the posting of the annexation notices on December 30, 1952, was no bar to the proceeding for incorporation. In re Village of Brown Deer, 267 W 481, 66 NW (2d) 333.

A posting of proposed annexation of part of a town to a city which disclosed that a portion of the town remained isolated, that territory of another city was included within the boundaries of the posted territory, and that an area was included which had already been posted by another city, was void on its face in respect to such items. Milwaukee v. Sewerage Comm. 268 W 342, 67 NW (2d) 624.

Under 62.07 (Stats. 1953) and 66.03, the instant annexation ordinance is not objectionable for including in the territory sought to be annexed by the city certain land owned by a town from which a portion of the proposed annexed area is to be detached. Town of Madison v. City of Madison, 269 W 609, 70 NW (2d) 249.

In a duly published annexation ordinance, a notice that such ordinance would be acted on at the next regular meeting of the common council of the annexing city was not required by statute, was merely surplusage, and did not vitiate the annexation proceeding by reason of the fact that the ordinance was adopted at a regular meeting subsequent to the next regular meeting of the council. The towns from which territory was to be detached were not prejudiced or misled by virtue of the inclusion of such notice in the published annexation ordinance, nor by the common council's deferment of action on such ordinance to a time subsequent to that specified in such notice. Town of Madison v. City of Madison, 269 W 609, 70 NW (2d) 249.

Where, in a proceeding attacking the validity of an annexation, there was in the record an affidavit of the printer that the notice of circulation of the petition for annexation was published in a newspaper on January 28, but there was also in evidence a copy of the same newspaper of January 27 containing the same notice with an inconsequential error in the description of the territory sought to be annexed, and the statute (1953) required only that a copy of the notice be published at least 10 days before the petition was to be circulated, and did not require that its publication be proved by affidavit, the trial court could properly use the date of January 27 in determining the date of publication. Greenfield v. Milwaukee, 272 W 388, 75 NW (2d) 434.

The 1953 statutes did not require the insertion of the description of the land owned by each of the signers opposite their names in the petition for annexaton. Greenfield v. Milwaukee, 272 W 388, 75 NW (2d) 434.

The validity of an annexation ordinance is presumed until overcome by the town attacking the same and, with reference to an assessed valuation attributed to a person who signed the petition for annexation as "Mrs. John Smith" whereas the record title ownership of the property described was in the name of "Mary Smith," it is presumed that "Mrs. John Smith" and "Mary Smith"

are one and the same, in the absence of a showing by the town that they are not. Greenfield v. Milwaukee, 272 W 388, 75 NW (2d) 434.

Where 2 electors resided in certain town territory when a petition for annexation thereof to a city was circulated and when it was filed with the city clerk, but the annexation petition contained no signatures of electors as required by the 1953 statute, the petition was invalid when filed, and the common council of the city acquired no jurisdiction although such 2 electors were not residing in such territory when the annexation ordinance was adopted by the council; hence such ordinance was null and void. (Blooming Grove v. Madison, 253 W 215, distinguished.) Greenfield v. Milwaukee, 272 W 610, 76 NW (2d) 320.

The validity of an annexation was not affected by the fact that the annexation put portions of a public highway within the annexing city. An area in the town was not severed by virtue of the annexation but was joined to the remainder of the town by a corridor 30 feet wide and 630 feet long. Greenfield v. Milwaukee, 273 W 484, 78 NW (2d) 909.

A second annexation attempt was not prevented by a first one which had been indefinitely postponed, even if it could be held that the first one is still pending. Greenfield v. Milwaukee, 273 W 484, 78 NW (2d) 909.

See note to sec. 3, art. IV, citing Greenfield v. Milwaukee, 273 W 484, 78 NW (2d) 909.

The 90-day limitation in (3) [62.07, Stats. 1953], for attacks on the validity of annexation proceedings, does not bar attack on the validity of such proceedings on jurisdictional grounds, such as failure to post notices as required by statute or insufficiency of the petition for annexation. Brown Deer v. Milwaukee, 274 W 50, 79 NW (2d) 340.

See note to 66.02, citing Brown Deer v. Milwaukee, 274 W 50, 79 NW (2d) 340.

See note to sec. 3, art. IV, citing Fish Creek Park Co. v. Bayside, 274 W 533, 80 NW (2d) 437.

In reviewing annexation cases on the question of whether the tract proposed to be annexed is reasonably suitable or adaptable to city or village uses or needs, the court will consider the necessity for reasonable plans for orderly suburban development as an element. The city council in the first instance determines the suitability or adaptability of the area proposed to be annexed and the necessity of annexing the same for the proper growth and development of the city and, on a review, the courts cannot disturb the council's determination unless it appears that such determination is arbitrary and capricious or is an abuse of discretion. Town of Brookfield v. City of Brookfield, 274 W 638, 80 NW (2d) 800.

Under the 1955 statutes, between the dates of introduction of the ordinance and final enactment, qualified electors who had not theretofore signed the petition may sign supplemental petitions, and such signatures can be counted to determine the sufficiency of the petitions. Town of Brookfield v. City of Brookfield, 274 W 638, 80 NW (2d) 800.

Under the 1955 statutes a valid petition for annexation of territory must be filed with the city council in order to authorize the introduction of a proposed ordinance of annexation and an order for the publication thereof, but petitioners may withdraw their signatures prior to final action by the council, but those signatures can be reinstated by the filing of a petition withdrawing the withdrawals. Town of Brookfield v. City of Brookfield, 274 W 638, 80 NW (2d) 800.

See note to 66.029, citing Blooming Grove v. Madison, 275 W 328, 81 NW (2d) 713.

Under 62.07 (1) (b) (Stats. 1955), 4 weeks must elapse between the first publication and the adoption of the ordinance. Blooming Grove v. Madison, 275 W 328, 81 NW (2d) 713.

The annexation of territory in a town to a city is not invalid for dividing the town into 4 noncontiguous areas. Blooming Grove v. Madison, 275 W 342, 81 NW (2d) 721.

66.022 Detachment of territory. Territory may be detached from any city or village and be attached to any city, village or town, to which it is contiguous, in the following manner:

(1) A petition signed by a majority of the owners of three-fourths of the taxable land in area within such territory or, if there is no taxable land therein, by all owners of such land, shall be filed with the clerk of the city or village from which detachment is sought, within 120 days after the date of publication in a newspaper having general circulation in the area of a notice of intention to circulate a petition of detachment.

(2) An ordinance detaching such territory may be enacted within 60 days after the filing of such petition, by vote of three-fourths of all the members of the governing body of the detaching city or village and its terms accepted within 60 days after such enactment, by an ordinance enacted by a vote of three-fourths of all the members of the governing body of the city, village or town to which such territory shall be annexed. The failure of any governing body to adopt the ordinance as provided herein shall be deemed a rejection of the petition and all proceedings thereunder shall be void.

(3) The governing body of any city, village or town involved may, or if a petition signed by 5 per cent of the electors thereof, as determined by the register of voters on the date of filing of such petition, demanding a referendum thereon, be presented to it within 30 days after the passage of either of the ordinances herein provided for, shall cause the question to be submitted to the electors of the city, village or town whose electors petitioned therefor, at a referendum election called for such purpose within 30 days after the filing of such petition, or after the enactment of either ordinance. The governing body of the municipality shall appoint 3 election inspectors who shall be resident electors to supervise the referendum. The ballots shall contain the words "For Detachment" and "Against Detachment." The inspectors shall certify the results of the election by their affidavits annexed thereto and file a copy with the clerk of each town, village or city involved, and none of the ordinances so provided for shall take effect nor be in force unless a majority of the electors shall approve the same. The referendum election shall be conducted in accordance with ch. 6 insofar as applicable.

History: 1957 c. 676.

66.025 Annexation of owned territory. In addition to other methods provided by law, territory owned by and lying near but not necessarily contiguous to a village or city

may be annexed thereto by ordinance adopted by the board of trustees of such village or the council of such city, provided that in the case of noncontiguous territory the use of such territory by the city or village is not contrary to any town or county zoning regulation. Such ordinance shall contain the exact description of the territory annexed and the names of the town or towns from which detached, and shall operate to attach such territory to such village or city upon the filing of 4 certified copies thereof in the office of the secretary of state, together with 4 copies of a plat showing the boundaries of the territory attached. Two copies of the ordinance and plat shall be forwarded by the secretary of state to the highway commission and one copy to the department of taxation.

History: 1955 c. 13, 615.

66.026 Notice of litigation. Whenever any proceedings under ss. 60.81, 61.11, 61.185 [66.021, 66.022], 61.187, 61.189, 61.74, 62.06, 62.07 [66.021, 66.022], 62.075, 66.025 or other sections relating to an incorporation, annexation, consolidation, dissolution or detachment of territory of a city or village is contested by instigation of legal proceedings, the clerk of the city or village involved in such proceedings shall forthwith file with the secretary of state 4 copies of a notice of the commencement of such action. He shall also file with the secretary of state 4 copies of any judgments rendered or appeals taken in such cases. The notices or copies of judgments as herein required may also be filed by an officer or attorney of any party of interest. The secretary of state shall forward to the highway commission 2 copies and to the department of taxation one copy of any notice of action or judgment filed with him pursuant to this section.

History: 1957 c. 525.

66.029 Town boundaries, actions to test alteration. In proceedings whereby territory is attached to or detached from any town, the town is an interested party, and the town board may institute, maintain or defend an action brought to test the validity of such proceedings, and may be interpleaded in any such action.

By providing that the town board may institute an action to test the validity of annexation proceedings detaching territory from the town, the legislature dispensed with any vote by the electors at a town meeting in such matter, so that 60.18 (2), authorizing the electors of the town to direct the institution of actions in which the town is interested, does not apply. Town of Madison v. City of Madison, 269 W 609, 70 NW (2d) 249.

A town has no right to determine the extent of territory that may be detached from it in valid annexation proceedings, but a town's governmental affairs are affected and require adjustment when territory is taken from it. 66.029 merely grants to towns, for the protection of their interests against invalid proceedings, the right to compel and enforce a strict compliance with the required procedure, and is not invalid as being out of harmony with prior decisions of the supreme court that a town has no interest in the alteration of its boundaries, and as being outside the scope of the legislature's authority. Town of Madison v. City of Madison, 269 W 609, 70 NW (2d) 249.

A town, on the basis of its petition for intervention merely reciting that it had an interest in the subject matter of an action against a village by the owner of a subdivision in the town to test the validity of annexation proceedings, and suggesting that questions might arise concerning the apportionment of assets and taxes, may have been a proper party but it was not a necessary party within the purview of 260.19 (1), and the denial of its petition was not an abuse of discretion nor prejudicial to its rights. Fish Creek Park Co. v. Bayside, 273 W 89, 76 NW (2d) 557.

66.029 authorizes the town not only to commence the action but also to see it through to a conclusion, so that the entry of a judgment is not precluded by the mere fact that at such time the period specified by 62.07 (3) for the commencement of a similar action by interested parties generally may have expired. Blooming Grove v. Madison, 275 W 328, 81 NW (2d) 713.

A town may maintain an action to test an annexation without joining any residents of the area as parties. Blooming Grove v. Madison, 275 W 328, 81 NW (2d) 713.

An injunction is a proper remedy for a town to seek, since dismemberment of the town would cause irreparable injury. Blooming Grove v. Madison, 275 W 328, 81 NW (2d) 713.

66.03 Adjustment of assets and liabilities on division of territory. (1) DEFINITION. In this section "municipality" includes school district, town, village and city.

(2) BASIS. (a) Except as otherwise provided in this section when territory is transferred, in any manner provided by law, from one municipality to another, there shall be assigned to such other municipality such proportion of the assets and liabilities of the first municipality as the assessed valuation of all taxable property in the territory transferred bears to the assessed valuation of all the taxable property of the entire municipality from which said territory is taken according to the last assessment roll of such municipality. The clerk of any municipality to which territory is transferred as aforesaid, within 30 days of the effective date of such transfer, shall certify to the clerk of the municipality from which such territory was transferred a metes and bounds description of the land area involved and upon receipt of such description the clerk of the municipality from which such territory was transferred shall certify to the supervisor of assessments of the Wisconsin department of taxation having jurisdiction over the land area involved, the latest assessed value of the real and personal property located within said area, and shall make such further reports as may be needed by such supervisor of assessments in the performance of duties required by law.

(b) When the transfer of territory from one municipality to another results from the

incorporation of a new city or village, the proportion of the assets and liabilities assigned to such city or village shall be based on the average assessed valuation for the preceding 5 years of the property transferred in proportion to the average assessed valuation for the preceding 5 years of all the taxable property of the entire municipality from which said territory is taken, according to the assessment rolls of such municipality for said years. In any such case the certification by the clerk of the municipality from which territory was transferred shall include the assessed value of the real and personal property within the territory transferred for each of the last 5 years.

(2c) JOINT SCHOOL DISTRICTS. When territory is transferred, in any manner provided by law, from one joint school district to another school district, there shall be assigned to each school district involved such proportion of the assets and liabilities of the joint school districts involved as the equalized valuation of all taxable property in the territory transferred bears to the equalized valuation of all the taxable property of the joint school district from which said territory is taken, said equalized valuation to be made by the department of taxation upon application by the clerk of the school district or city to which the territory is transferred. The clerk of any school district or city to which territory is transferred as aforesaid, within 30 days of the effective date of such transfer, shall certify to the clerk of the municipality from which such territory was transferred a metes and bounds description of the land area involved and upon receipt of such description the clerk of the municipality from which such territory was transferred shall certify to the supervisor of assessments of the department of taxation having jurisdiction over the land area involved, the latest assessed value of the real and personal property located within said area, and shall make such further reports as may be needed by such supervisor of assessments in the performance of duties required by law.

(2e) OPTIONAL METHOD OF ADJUSTMENT. Two or more schools districts, prior to their consolidation, or the attachment of part of their district to another district, may, by identical resolutions adopted by a three-fourths vote of the members of each board concerned, establish an alternate method to govern any adjustment of their assets and liabilities to apply to any subsequent detachment from the enlarged district. The authority of this paragraph shall apply wherever the boards find that the adoption of the resolution is necessary to provide a more equitable method than provided in sub. (2) or (2c). This subsection shall also apply if one or more of the units involved operates under s. 40.80. The resolutions adopted shall be recorded in the office of the register of deeds.

(2m) ATTACHMENT AND DETACHMENT WITHIN 5 YEARS. Whenever territory is attached to or consolidated with a school district or a city operating under the city school plan, and such territory or any part thereof is detached therefrom within 5 years after such attachment or consolidation, the school district or city to which it is transferred shall be entitled, in the apportionment of assets and liabilities, only to the assets or liabilities or proportionate part thereof apportioned to the school district or city as the result of such original attachment or consolidation.

(3) REAL ESTATE. (a) The title to real estate shall not be transferred except by agreement, but the value thereof shall be included in determining the assets of the municipality owning the same and in making the adjustment of assets and liabilities.

(b) The right to possession and control of school buildings and school sites shall pass to the municipality in which the same are situated immediately upon the annexation or detachment of any school district territory to another municipality becoming effective, except that in cities of the first class the right to possession and control of such school buildings and school sites shall pass on July 1 following the adoption of the ordinance authorized by s. 62.07 (1) (b) [66.021; see ch. 676, laws of 1957]. The municipality thus receiving possession and control of said school buildings and school sites shall be liable to the school district from which the same is annexed or detached for its share of the value of the use thereof, which shall be determined at the time of adjustment of assets and liabilities. The municipality annexing the territory shall provide school facilities for the children residing in the remainder of the school district pending the adjustment of assets and liabilities on payment of tuition based on the per capita cost of instruction.

(c) When as a result of any annexation whereby a school district is left without a school building, any moneys are received by such school district as a result of the division of assets and liabilities required by s. 66.03, which are derived from values that were capital assets, such moneys and interest thereon shall be held in trust by such school district and dispensed only for procuring new capital assets or remitted to an operating district as the remainder of the suspended district becomes a part of such operating district, and shall in no case be used to meet current operating expenditures. This shall include any funds in the hands of any district officers on July 1, 1953, resulting from such action previously taken under s. 66.03. The boards involved shall, as part of their duties in division of assets and liabilities in school districts, make a written report of the alloca-

tion of assets and liabilities to the state superintendent of public instruction and any local superintendent of schools whose territory is involved in the division of assets.

(4) PUBLIC UTILITIES. Any public utility plant, including any dam, power house, power transmission line and other structures and property operated and used in connection therewith shall belong to the municipality in which the major portion of the patrons of such utility reside. The value of such utility, unless fixed by agreement of all parties interested shall be determined and fixed by the public service commission upon notice to the municipalities interested, in the manner provided by law. The commission shall certify the amount of the compensation to the clerks of each municipality interested and said amount shall be used by the apportionment board or boards in adjusting assets and liabilities.

(5) APPORTIONMENT BOARD. The boards or councils of the municipalities, or committees, thereof selected for that purpose, acting together, shall constitute an apportionment board. When any municipality is dissolved by reason of all of its territory being so transferred the board or council thereof existing at the time of such dissolution shall for the purpose of this section, continue to exist as the governing body of such municipality until there has been an apportionment of assets by agreement of the interested municipalities or by an order of the circuit court. After an agreement for apportionment of assets has been entered into between the interested municipalities, or an order of the circuit court shall become final, a copy of such apportionment agreement, or of such order, certified to by the clerks of the interested municipalities, shall be filed with the state department of taxation, the conservation commission, the state highway commission, the state superintendent of public instruction, the director of budget and accounts, and with any other officer, board, commission or agency of the state from which the town may be entitled by law to receive funds or certifications or orders relating to the distribution or disbursement of funds, with the county treasurer, with the treasurer of any municipality, or with any other entity from which payment would have become due if such dissolved municipality from which such territory was transferred had continued in existence. Thereafter payments of income taxes under s. 71.14, of occupational taxes on intoxicating liquor under s. 139.28, of forest crop taxes under s. 77.05, of public utility taxes under s. 76.28, of highway state aids under s. 20.420, of state aids for school purposes under ss. 40.50 to 40.56, and all payments of every kind whatsoever due from a board, commission, officer or agency of the state, from a county, from a municipality, or from any other entity from which payments would have become due if such dissolved municipality from which such territory was transferred had continued in existence, shall be paid to the interested municipality as provided by such agreement for apportionment of assets or by any order of apportionment by the circuit court and such payments shall have the same force and effect as if made to the dissolved municipality from which such territory was transferred.

(6) MEETING. The board or council of the municipality to which the territory is transferred shall fix a time and place for meeting and cause a written notice thereof to be given the clerk of the municipality from which such territory is taken at least five days prior to the date of the meeting. The apportionment may be made only by a majority of the members from each municipality who attend, and in case of committees, the action must be affirmed by the board or council so represented.

(7) ADJUSTMENT, HOW MADE. The apportionment board shall determine, except in the case of public utilities, such assets and liabilities from the best information obtainable and shall assign to the municipality to which the territory is transferred its proper proportion thereof by assigning the excess of liabilities over assets, or by assigning any particular asset or liability to either municipality, or in such other manner as will best meet the requirements of the particular case. When territory attached to a city for school purposes only is detached therefrom, the assets and liabilities of the city for school purposes shall be considered in apportioning the assets and liabilities and such territory may be assigned its proportionate share of the city's indebtedness for school purposes in the manner provided by sub. (2c). If a proportionate share of any indebtedness existing by reason of municipal bonds or other obligations outstanding shall be assigned to any municipality it shall cause to be levied and collected upon all the taxable property in such municipality in one sum or in annual instalments the amount necessary to pay the principal and interest thereon when the same shall become due, and shall pay the amount so collected to the treasurer of the municipality which issued said bonds or incurred such other obligations, who shall apply the moneys so received strictly to the payment of such principal or interest.

(7a) APPORTIONMENT OF AIDS AND TAXES. If the asset apportioned consists of an aid or tax to be distributed in the future according to population, the apportionment board shall certify to the officer, agency or department responsible for making the distribution each municipality's proportionate share of such asset as determined in accordance

with sub. (2). The officer, agency or department shall thereafter distribute such aid or tax directly to the several municipalities according to such certification until the next federal census.

(8) APPEAL TO COURT. In case the apportionment board is unable to agree, the circuit court of the county in which either municipality is situated, may, upon the petition of either municipality, make the adjustment of assets and liabilities pursuant to provisions of this section.

(9) TRANSCRIPT OF RECORDS. When territory shall be detached from a municipality by creation of a new municipality or otherwise, the proper officer of the municipality from which the territory was detached shall furnish, upon demand by the proper officer of the municipality created from the detached territory or to which it is annexed, authenticated transcript of all public records in his office pertaining to the detached territory. The municipality receiving the transcript shall pay therefor.

(10) STATE TRUST FUND LOANS. When territory transferred in any manner provided by law from one municipality to another is liable for state trust fund loans secured under chapter 25, the clerk of the municipality to which territory is transferred shall within 30 days of the effective date of such transfer certify a metes and bounds description of the transferred area to the clerk of the municipality from which the land was transferred. Thereupon, the clerk of the municipality from which such territory was transferred shall certify to the commissioners of the public lands: (a) the effective date of such transfer of territory; (b) the last preceding assessed valuation of the territory liable for state trust fund loans prior to transfer of a part of such territory; (c) the assessed valuation of the territory so transferred. Thereafter, the commissioners shall in making their annual certifications of the amounts due on account of state trust fund loans distribute annual charges for interest and principal on any such outstanding loans in the proportion that the assessed valuation of the territory so transferred shall bear to the assessed valuation of the area liable for state trust fund loans as constituted immediately before the transfer of territory, provided, however, that any transfer of territory effective subsequent to May 1 of any year shall not be considered until the succeeding year.

(10a) CORRECTIONS. The provisions of sub. (10) are applicable to school districts. Any errors, omissions or other defects in the tax certifications and levies in connection with the repayment of state trust fund loans by school districts for the year 1950 and all subsequent years may be corrected by the school district clerk in the tax levy certifications for following years.

(11) DESIGNATING DISTRICTS. Whenever a transfer of territory from one school district to another results in a change in the name of a school district which is liable for one or more state trust fund loans secured under ch. 25, the clerk of the school district to which the territory was transferred shall, within 30 days of the effective date of such transfer, certify to the commissioners of the public lands, the county clerk and the county superintendent of schools:

(a) The name of the school district from which territory was transferred;

(b) The effective date of such transfer;

(c) The name of the school district to which the transfer was made immediately prior to the effective date of the transfer;

(d) The name of the school district to which the transfer was made immediately after the effective date of such transfer.

Thereafter, in making their annual certifications of the amounts due on account of state trust fund loans the commissioners of the public lands shall use the new name of the school district, provided that any transfer of territory effective subsequent to May 1 of any year shall not be considered by them until the succeeding year.

(12) TIME OF TRANSFER. When the governmental classification of a school district is changed, all of the assets and liabilities and the title to all school property shall vest in the new district by operation of law upon the effective date of the change.

(13) TAXES AND ASSESSMENT. (a) *General property taxes.* Whenever any territory is annexed, detached or incorporated after April 30 in any year, general property taxes levied against said territory shall be collected by the treasurer of the municipality in which the territory was located on May 1 of such year, and all moneys collected from the tax levied for local municipal purposes shall be allocated to each of the municipalities on the basis of the portion of the calendar year the territory was located in each of the municipalities, and paid accordingly. If the municipality in which the territory was located on May 1 is nonexistent, such taxes shall be collected by the treasurer of the municipality to which the territory has been transferred.

(b) *Special taxes and assessments.* Whenever territory is transferred from one municipality to another by annexation, detachment, consolidation or incorporation, or re-

turns to its former status by reason of court determination, any special tax or assessment outstanding against any property in the territory shall be collected by the treasurer of the municipality wherein the property is located, according to the terms of the ordinance or resolution levying such tax or assessment. Such special tax or assessment, when collected, shall be paid to the treasurer of the municipality which levied the special tax or assessment, or if the municipality is nonexistent, the collecting treasurer shall apply the collected funds to any obligation for which purpose the tax or assessment was levied and which remains outstanding; provided that if no such obligation is outstanding, the collected funds shall be paid into the school fund of the school district in which the territory is located.

(c) The clerk of the municipality which assessed such special and general tax and special assessment shall certify to the clerk of the municipality to which the territory was attached or returned, a list of all the property located therein to which is charged any uncollected taxes and assessments. The certification shall be made within 30 days after the effective date of the transfer of the property, but failure to so certify shall not affect the validity of the claim.

History: 1951 c. 285, 535; 1953 c. 310, 442; 1955 c. 142, 521, 652; 1957 c. 382, 538, 564, 676.

Where a county school committee had entered an order enlarging the area of an existing high school district to include certain territory not previously a part of any high school district, but such order, after the enlarged district had operated as a unit for one school year, was then rendered ineffective by an unfavorable referendum, there was not a transfer of territory from one high school district to another, such as to require a division of assets, when such territory then merely reverted to its former status in which it was not a part of any high school district; and neither was there such a transfer later when an order of the county school committee created a high school district out of such territory which did not then form a part of any high school district. In re Joint Union Free High School Dist. 262 W 126, 54 NW (2d) 40.

Funds set aside by a referendum vote of the electors of a town, from a surplus on hand, for the purpose of establishing a community-building fund, did not constitute a "trust fund" which could not be used except in the manner designated, but constituted ordinary assets of the town, to be included in making a division and apportionment of assets and liabilities under (2), between the town and a village following the formation of the village out of a part of the town. Milton Junction v. Milton, 263 W 367, 57 NW (2d) 186.

Moneys in a special rubbish-removal fund of a rubbish-removal district created by a town pursuant to 60.29 (30), 66.049, and moneys in a special utility-district fund of a utility district created pursuant to 66.072, raised by special taxes levied on property in the respective districts, constituted trust funds, and hence did not constitute "assets" of the town to be included in making an apportionment of assets and liabilities when a village was incorporated out of a part of the town. (Milton Junction v. Milton, 263 W 367, distinguished.) Bayside v. Milwaukee, 267 W 448, 66 NW (2d) 129.

State taxes such as income taxes, telephone-company taxes, motor-vehicle registration fees, and liquor taxes received by the town from the state treasurer subsequent to the date of incorporation of the village out of a part of the town, until such time as the state recognizes the village as a separate municipality entitled to share in such taxes, would constitute apportionable assets of the town, within (7). Where the village, incorporated out of a part of the town, was not in existence during the first 44 days of 1953, 44/365 of such state taxes received by the village from the state treasurer in 1954, which were levied for the year 1953, would constitute apportionable assets of the village as to which the town would be entitled to a percentage thereof. Bayside v. Milwaukee, 267 W 448, 66 NW (2d) 129.

See note to 62.07, citing Town of Madison v. City of Madison, 269 W 609, 70 NW (2d) 249.

The public service commission, in determining the value of the water utility of the town pursuant to (4), properly deducted federal grants in aid of construction and customers' contributions in aid of construction, there being no statutory formula or standard for determining value in such cases, and the method employed by the commission herein being deemed fair and equitable in view of the character of the property involved and of the rules of the commission consistently followed in rate-making cases. St. Francis v. Public Service Comm. 270 W 91, 70 NW (2d) 221.

The public service commission's determination of the value of the water utility of a town pursuant to 66.03 (4) is a "determination" within 196.41 and a "decision" within 227.15, so as to be subject to judicial review under ch. 227. St. Francis v. Public Service Comm. 270 W 91, 70 NW (2d) 221.

Allegedly unreasonable delay on the part of the annexing village in bringing the instant apportionment proceeding was not prejudicial to the town on the ground that a property-tax levy, if necessary to pay the village, would not reach town taxpayers who had departed by annexation or municipal incorporation, since the town liability to the village established in such proceeding was a properly apportionable liability, and (7) recognizes that the municipality to which a liability is assigned may, in appropriate cases, be required to levy a property tax for payment thereof. Greenfield v. West Milwaukee, 272 W 215, 75 NW (2d) 424.

Accrued assets of a town from state aids and state-distributed taxes as of the date of annexation of a portion of the territory of the town to a village, although not yet received by the town, constituted apportionable assets of the town, within (7). State income taxes received by the town from the state treasurer subsequent to the date of annexation of a portion of the territory of the town to the village, until such time as the state recognized the transfer of the annexed territory for tax purposes, constituted apportionable assets of the town; but taxes properly remitted to the village after such date, and representing a portion of income taxes of residents and taxpayers of the annexed territory, had no bearing in determining the apportionable assets of the town as of the date of annexation of such territory. Greenfield v. West Milwaukee, 272 W 215, 75 NW (2d) 424.

66.03 does not apply so as to require an apportionment of the assets and liabilities of a school district in a town when a portion of the territory of the town is annexed to a village but the boundaries of the school district are not thereby changed, since in such case no territory of the school district, a distinct and separate municipal entity, is transferred. Greenfield v. West Milwaukee, 272 W 215, 75 NW (2d) 424.

(2) applies so as to require an apportionment of the assets and liabilities of a town when a portion of the territory of the town is annexed to an existing village. Greenfield v. West Milwaukee, 272 W 215, 75 NW (2d) 424.

Mandamus will lie to compel the proper officials of a dissolved school district to deliver the possession and control of the

school buildings, sites, and records of such dissolved district to a joint school district to which such dissolved district has been attached, and it is not a defense to such action that no apportionment of assets and liabilities has yet been made. State ex rel. West Allis v. Zawerschnik, 275 W 204, 81 NW (2d) 542.

See note to 139.28, citing 41 Atty. Gen. 51.

Thirty-day period under (2) is directory and does not defeat jurisdiction to make certification later, and the municipalities involved are not barred thereafter from proceeding with division of assets and liabilities as provided by law. 41 Atty. Gen. 169.

66.035 Code of ordinances. The governing body of any city or village may authorize the preparation of a code of general ordinances of such city or village. Such code may be adopted by an ordinance referring thereto and may be published in book or pamphlet form and such publication shall be sufficient even though the ordinances contained therein were not published in accordance with ss. 61.50 (1) and 62.11 (4) (a). A copy of such code shall be permanently on file and open to public inspection in the office of the clerk after its adoption and for a period of not less than 2 weeks before its adoption.

History: 1957 c. 560.

66.04 Appropriations. (1) BONUS TO STATE INSTITUTION. No appropriation or bonus of any kind shall be made by any town, village, or city, nor any municipal liability created nor tax levied, as a consideration or inducement to the state to locate any public educational, charitable, reformatory, or penal institution.

(2) INVESTMENTS. Any county, city, village, town, school district, drainage district or other governing board as defined by s. 34.01 (4) may invest any of its funds, not immediately needed, in time deposits in any bank, savings bank or trust company which is authorized to transact business in Wisconsin, such time deposits maturing in not more than one year, or in bonds or securities issued or guaranteed as to principal and interest of the United States government, or of a commission, board or other instrumentality of the United States government, or bonds or securities of any county, city, drainage district, village, town or school district of this state, or in the case of a town, city or village in any bonds or securities issued under the authority of such municipality, whether the same create a general municipality liability or a liability of the property owners of such municipality for special improvements made therein, and may sell or hypothecate the same. Cemetery perpetual care funds, pension funds under s. 62.13 (9) or (10), or endowment funds including gifts where the principal is to be kept intact, may also be invested in corporation bonds or investment trusts included by the state of Wisconsin investment board on a list of securities having a high rating and it is the duty of said board to make such list available to any of said municipalities or governing boards upon request.

(3) CELEBRATION OF HOLIDAYS. A town, county, school board or school district may appropriate money for the purpose of initiating or participating in appropriate celebrations of any legal holiday listed in s. 256.17.

History: 1953 c. 245; 1955 c. 205, 413; 1957 c. 246.

Cross Reference: See also 157.50 (6) as to investment of municipal perpetual care funds.

66.041 Municipal audits and reports. Notwithstanding any other provision of the statutes the governing body of any city or village may require or authorize a financial audit of any municipal activity, including any officer, department, board, commission or function financed in whole or part from municipal funds, or where any portion of the funds thereof are the funds of such city or village. The governing body may likewise require submission of periodic financial reports by any such officer, department, board, commission or function.

66.042 Disbursement from local treasury. (1) Except as otherwise provided in subs. (2), (3), (4) and (5), in every county, city, village, town and school district, all disbursements from the treasury shall be made by the treasurer thereof upon the written order of the county, city, village, town or school clerk after proper vouchers have been filed in the office of the clerk; and in all cases where the statutes provide for payment by the treasurer without an order of the clerk, it shall hereafter be the duty of the clerk to draw and deliver to the treasurer an order therefor before or at the time when such payment is required to be made by the treasurer. The provisions of this section shall apply to all special and general provisions of the statutes relative to the disbursement of money from the county, city, village, town or school district treasury except s. 67.10 (2).

(2) Notwithstanding any other provision of law, a county having a population of 500,000 may, by ordinance, adopt any other method of allowing vouchers, disbursing funds, reconciling outstanding county orders, reconciling bank accounts, examining county orders, and accounting therefor consistent with accepted accounting and auditing practices, provided that such ordinance shall prior to its adoption be submitted to the state department of audit, which department shall submit its recommendations with respect thereto to the county board of supervisors.

(3) Except in cities of the first class and counties having a population of 500,000 or more, disbursements from the county, city, village, town or school treasury shall be by order check. No such order check shall be released to the payee, nor shall such be valid, unless signed by the clerk and treasurer. Unless otherwise directed by ordinance adopted by the governing body, certified copy of which shall be filed with the public depository or depositories concerned, the chairman of the county board, mayor, village president, town chairman or director of the school district, as the case may be, shall countersign all order checks. The governing body may also by ordinance authorize additional signatures. In lieu of the personal signatures of the clerk and treasurer and such other signature as may be required, there may be affixed on such order check the facsimile signatures of such persons adopted by them and approved by the governing body concerned but the use of such facsimile signature shall not relieve any such official from any liability to which he is otherwise subject, including the unauthorized use thereof. Any public depository shall be fully warranted and protected in making payment on any check bearing such facsimile notwithstanding that the same may have been placed thereon without the authority of the designated persons.

(4) Whenever any board, commission or committee of any county, city, village, town or school district is vested by statute with exclusive control and management of a fund, including the audit and approval of payments therefrom, independently of the governing body, such payments shall be made by order checks issued by the county, city, village, town or school clerk upon the filing with him of certified bills, vouchers or schedules signed by the proper officers of such board, commission or committee, giving the name of the claimant or payee, and the amount and nature of each payment.

(5) In cities of the first class, municipal disbursements of public moneys shall be by order, check or order check. Checks shall be signed by the treasurer and countersigned by the comptroller. Orders shall be signed by the mayor and clerk and countersigned by the comptroller, as provided in the charter of such city. Disbursements of school moneys shall be in the manner provided by s. 38.16 (2). Disbursements of vocational school moneys shall be in the manner provided by s. 41.16 (5), except that such orders or checks shall be signed by a person authorized by the board of vocational and adult education and countersigned by the city comptroller.

(6) Withdrawal or disbursement of moneys deposited in a public depository as defined in s. 34.01 (2) by a treasurer as defined in s. 34.01 (7), other than the elected, appointed or acting official treasurer of a county, city, village, town or school district, shall be by check signed by the person or persons designated by written authorization of the governing board as defined in s. 34.01 (4). Any such authorization shall conform to any specific statutory provision covering the disbursement of such funds. Any public depository shall be fully warranted and protected in making payment in accordance with the latest authorization on file therewith.

(7) No order shall be issued by the city or village clerk in excess of funds available or appropriated for the purposes for which such order is drawn, unless authorized by a resolution adopted by the affirmative vote of a majority of all members of the governing body of such city or village.

History: 1951 c. 407, 560; 1953 c. 341.

66.044 Financial procedure; alternative system of approving claims. (1) The governing body of any village or of any city of the second, third or fourth class may by ordinance enact an alternative system of approving financial claims against the municipal treasury. Such ordinance shall provide that payments may be made from the city or village treasury after the comptroller or clerk of the city or village shall have audited and approved each such claim as a proper charge against the treasury, and shall have indorsed his approval thereon after having determined that the following conditions have been complied with:

(a) That funds are available therefor pursuant to the budget approved by the governing body.

(b) That the item or service covered by such claim has been duly authorized by the proper official, department head or board or commission.

(c) That the item or service has been actually supplied or rendered in conformity with such authorization.

(d) That the claim is just and valid pursuant to law. The comptroller or clerk may require the submission of such proof and evidence to support the foregoing as in his discretion he may deem necessary.

(2) Such ordinance shall require that the clerk or comptroller shall file with the governing body not less than monthly a list of the claims approved, showing the date paid, name of claimant, purpose and amount.

(3) The ordinance shall provide that the governing body of the city or village shall authorize an annual detailed audit of its financial transactions and accounts by the department of state audit pursuant to section 15.22 (12) or by a public accountant licensed under the provisions of chapter 135 the designation to be made by the governing body.

(4) Such system shall be operative only if the comptroller or clerk is covered by a fidelity bond of not less than $5,000 in villages and cities of the fourth class, of not less than $10,000 in cities of the third class, and of not less than $20,000 in cities of the second class.

(5) Whenever such an alternative procedure has been adopted by ordinance in conformity with this section, then the claim procedure required by sections 62.09 (10), 62.11, 62.12, 62.25, 61.25 (6) and 61.51 and other relevant provisions shall not be applicable in such city or village.

66.045 Privileges in streets. (1) Privilege for an obstruction or excavation beyond the lot line, or within a highway in any town, village, or city, other than by general ordinance affecting the whole public, shall be granted only as provided in this section.

(2) Application therefor shall be made to the board or council, and the privilege shall be granted only on condition that by its acceptance the applicant shall become primarily liable for damages to person or property by reason of the granting of the privilege, be obligated to remove the same upon 10 days' notice by the state or the municipality and waive right to contest in any manner the validity of this section or the amount of compensation charged and that the applicant file such bond as the board or council require, not exceeding $10,000 running to the town, village, or city, and such third parties as may be injured, to secure the performance of these conditions. But if there is no established lot line and the application is accompanied by a blue print, the board or council may make such conditions as they deem advisable.

(3) Compensation for the special privilege shall be paid into the general fund and shall be fixed, in towns by the chairman, in villages by the president, and in cities by a board consisting of the board or commissioner of public works, city attorney and mayor.

(4) The holder of such special privilege shall be entitled to no damages for removal of the obstruction or excavation, and if he shall not remove the same upon due notice, it shall be removed at his expense.

(5) Third parties whose rights are interfered with by the granting of such privilege shall have right of action against the holder of the special privilege only.

(6) The provisions of subsections (1) to (5) do not apply to public service corporations, or to co-operative associations organized under chapter 185 to render or furnish telephone, gas, light, heat or power, but such corporations shall secure permit from the proper official for temporary obstructions or excavation in a highway and shall be liable for all injuries to person or property thereby.

(7) This section does not apply to such obstruction or excavation for not longer than 3 months, and for which permit has been granted by the proper official.

(8) Obstruction or excavation by a city or village in any street, alley, or public place belonging to any other municipality is included in this section.

(9) Anyone causing any obstruction or excavation to be made contrary to the provisions of subsections (1) to (8) shall be liable to a fine of not less than $25 and not more than $500, or to imprisonment in the county jail for not less than 10 days nor more than 6 months, or to both such fine and imprisonment.

66.046 Barriers across streets for play purposes. The council or board of any city or village may cause streets that are not a part of any federal, state or county trunk highway system, to be set aside for the safety of children in coasting or other play activities, and may obstruct or barricade such streets for such period of time and in such manner as shall most effectively safeguard the children from accidents. The council or board of such city or village shall erect and maintain thereon barriers or barricades, lights or warning signs therefor and shall not be liable for any damage caused thereby.

History: 1953 c. 631.

66.047 Interference with public service structure. No contractor having a contract for any work upon, over, along or under any public street or highway shall interfere with, destroy or disturb the structures of any public service corporation encountered in the performance of such work so as to interrupt, impair or affect the public service for which such structures may be used, without first procuring written authority from the commissioner of public works, or other properly constituted authority. It shall, however, be the duty of every public service corporation, whenever a temporary protection of, or temporary change in, its structures, located upon, over, along or under the surface of any public street or highway is deemed by the commissioner of public works, or other such duly constituted authority, to be reasonably necessary to enable the accomplishment of

such work, to so temporarily protect or change its said structures; provided, that such contractor shall give at least 2 days' notice of such required temporary protection or temporary change to such corporation, and shall pay or assure to such corporation the reasonable cost thereof, except when such corporation is properly liable therefor under the law, but in all cases where such work is done by or for the state or by or for any county, city, village, or town, the cost of such temporary protection or temporary change shall be borne by such public service corporation.

An electric utility, before undertaking to raise or relocate its wires to permit the passage of a building along the route on which it was to be moved, could require of the house mover a contract to assume the reasonable cost of the operation, including workmen's compensation insurance for the utility's workmen and liability insurance to cover claims by third parties arising out of the work done by the utility's workmen, and to make an advance deposit of the amount of the utility's estimated cost of its operations in connection with the moving, subject to adjustment thereof on the completion of the work and the ascertainment of the actual cost. State ex rel. Hermann v. Madison G. & E. Co. 264 W 31, 58 NW (2d) 522.

66.048 Viaducts in cities; lease of space by Milwaukee. (1) VIADUCTS, PRIVATE IN CITIES. The privilege of erecting a viaduct above a public street or alley, for the purpose of connecting buildings on each side thereof, may be granted by the city council upon the written petition of the owners of all the frontage of the lots and lands abutting upon the portion thereof sought to be connected, and the owners of more than one-half of the frontage of the lots and lands abutting upon that portion of the remainder thereof which lies within 2,650 feet from the ends of the portion proposed to be so connected. Whenever any of the lots or lands aforesaid is owned by the state, or by a county, city or village, or by a minor or incompetent person, or the title thereof is held in trust, as to all lots and lands so owned or held, said petition may be signed by the governor, the chairman of the county board, the mayor of the city, the president of the board of trustees of the village, the guardian of the minor or incompetent person, or the trustee, respectively, and the signature of any private corporation may be made by its president, secretary or other principal officer or managing agent. Written notice stating when and where the petition will be acted upon, and describing the location of the proposed viaduct, shall be given by the city council as follows: By posting copies thereof in 3 public places in said city not less than 3 weeks before the day fixed for the hearing, and when possible, by the publication of said notice in the official or some other newspaper printed in said city, once a week for 3 successive weeks before said day.

(2) VIADUCTS, REMOVAL OF PRIVATE. A viaduct in any city may be discontinued by the city council, upon written petition of the owners of more than one-half of the frontage of the lots and lands abutting on the street approaching on each end of such viaduct, which lies within 2,650 feet from the ends of such viaduct. Whenever any of the lots or lands aforesaid is owned by the state, or by a county or city, or by a minor or incompetent person, or the title thereof is held in trust, as to all lots and lands so owned or held, said petition may be signed by the governor, the chairman of the county board, the mayor of the city, the guardian of the minor or incompetent person, or the trustee, respectively, and the signature of any private corporation may be made by its president, secretary or other principal officer or managing agent. Written notice stating when and where the petition will be acted upon, and stating what viaduct is proposed to be discontinued, shall be given by the city council as follows: By posting copies thereof in 3 public places in said city not less than one year before the day fixed for the hearing and again not less than 20 nor more than 30 days before the date of such hearing, and when possible, by the publication of said notice in the official or some other newspaper printed in said city, once not less than one year before and once a week for 3 successive weeks before said day.

(3) LEASE OF SPACE BY CITIES OF THE FIRST CLASS. (a) Any city of the first class shall have the power to lease space over any street, alley or other public place in the city which is more than 12 feet above the level of the street, alley or other public place for any term not exceeding 99 years to the person who owns the fee in the property on both sides of the portion of the street, alley or other public place to be so leased, whenever the governing body of the city is of the opinion that such place is not needed for street, alley or other public purpose, and that the public interest will be served by such leasing.

(b) The leasing of each space shall be authorized by ordinance. The ordinance shall set forth the proposed lease, the purpose for which the space may be used and the terms of the lease with reasonable certainty.

(c) The lease shall be signed on behalf of the city by the mayor and shall be attested by the city clerk under the corporate seal. The lease shall also be executed by the lessee in such manner as necessary to bind him. After being duly executed and acknowledged the lease shall be recorded in the office of the register of deeds of the county in which is located the leased premises.

(d) If, in the judgment of such governing body, the public interest requires that any building erected in the leased space be removed so that a street, alley or public place may

be restored to its original condition, the lessor city may condemn the lessee's interest in the leased space by proceeding under chapter 32. After payment of such damages as may be fixed in the condemnation proceedings, the city may remove all buildings or other structures from the leased space and restore the buildings adjoining the leased space to their original condition.

History: 1951 c. 247 s. 20; 1957 c. 610.

Revisor's Note, 1951: Corrects an obvious error. The stricken language is inappropriate here and was apparently copied from the statute on vacation of a village street or alley. (Bill 198-S)

66.049 Removal of rubbish. Cities and villages may cause the removal of ashes, garbage, and rubbish from such classes of places therein as the board or council shall direct. The removal may be from all such places or from those whose owners or occupants desire the service. Districts may be created and removal provided for certain of them only, and different regulations may be applied to each removal district. The cost of removal may be provided for by special assessment against the property served, by general tax upon the property of the respective districts, or by general tax upon the property of the city or village.

See note to 66.03, citing Bayside v. Milwaukee, 267 W 448, 66 NW (2d) 129.

66.05 Razing buildings; excavations. (1) The governing body or the inspector of buildings or other designated officer in every municipality may order the owner of premises upon which is located any building or part thereof within such municipality, which in his or their judgment is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation, occupancy or use, and so that it would be unreasonable to repair the same, to raze and remove such building or part thereof, or if it can be made safe by repairs to repair and make safe and sanitary or to raze and remove at the owner's option; or where there has been a cessation of normal construction of any building or structure for a period of more than 2 years, to raze and remove such building or part thereof. The order shall specify a time in which the owner shall comply therewith and specify repairs, if any. It shall be served on the owner of record or his agent where an agent is in charge of the building and upon the holder of any incumbrance of record in the manner provided for service of a summons in the circuit court. If the owner or a holder of an incumbrance of record cannot be found the order may be served by posting it on the main entrance of the building and by publishing in the official newspapers of the municipality for 2 consecutive publications at least 10 days before the time limited in the order commences to run.

(2) If the owner shall fail or refuse to comply within the time prescribed, the inspector of buildings or other designated officer shall cause such building or part thereof to be razed and removed either through any available public agency or by contract or arrangement with private persons, or closed if unfit for human habitation, occupancy or use. The cost of such razing and removal or closing shall be charged against the real estate upon which such building is located and shall be a lien upon such real estate, and shall be assessed and collected as a special tax. When any building has been ordered razed and removed the governing body or other designated officer under said contract or arrangement aforesaid may sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such razing and removal, shall be promptly remitted to the circuit court with a report of such sale or transaction, including the items of expense and the amounts deducted, for the use of the person who may be entitled thereto, subject to the order of the court. If there remains no surplus to be turned over to the court, the report shall so state. If the building or part thereof is insanitary and unfit for human habitation, occupancy or use, and is not in danger of structural collapse the building inspector shall post a placard on the premises containing the following words: "This Building Cannot Be Used for Human Habitation, Occupancy or Use." And it shall be the duty of the building inspector or other designated officer to prohibit the use of the building for human habitation, occupancy or use until the necessary repairs have been made. Any person, firm or corporation who shall rent, lease or occupy a building which has been condemned for human habitation, occupancy or use shall be liable to a fine of not less than $5 nor more than $50 for each week of such violation.

(3) Anyone affected by any such order shall within 30 days after service of such order apply to the circuit court for an order restraining the inspector of buildings or other designated officer from razing and removing such building or part thereof or forever be barred. Hearing shall be had within 20 days and shall be given precedence over other matters on the court's calendar. The court shall determine whether the order of the inspector of buildings is reasonable, and if found reasonable the court shall dissolve the restraining order, and if found not reasonable the court shall continue the restraining order or modify it as the circumstances require. Costs shall be in the discretion of the court. If

the court finds that the order of the inspector of buildings is unreasonable, the inspector of buildings or other designated officer shall issue no other order pursuant to the authority of this section in regard to the same building or part thereof until its condition is substantially changed. The remedies herein provided shall be exclusive remedies and anyone affected by such an order of the inspector shall not be entitled to recover any damages for the razing and removal of any such building.

(4) "Building" as used in this section includes any building or structure.

(5) If any building ordered razed or made safe and sanitary by repairs contains personal property or fixtures which will unreasonably interfere with the razing or repair of such building or if the razing of the building makes necessary the removal, sale or destruction of such personal property or fixtures the inspector of buildings or other designated officer may order in writing the removal of such personal property or fixtures by a certain date. Such order shall be served as provided in subsection (1). If the personal property or fixtures or both are not removed by the time specified the inspector may store the same, or may sell it, or if it has no appreciable value he may destroy the same. In case the property is stored the amount paid for storage shall be a lien against such property and against the real estate and shall be assessed and collected as a special tax against the real estate if the real estate is owned by the owner of the personal property and fixtures. If the property is stored the owner thereof, if known, shall be notified of the place of its storage and if it be not claimed by the owner it may be sold at the expiration of 6 months after it has been stored. In case of sale the handling of the sale and the distribution of the net proceeds after deducting the cost of storage and any other costs shall be handled as specified in subsection (2) and a report made to the circuit court as therein specified. Anyone affected by any order made under this subsection may appeal as provided in subsection (3).

(6) In any town, city or village in any county having a population of 500,000 or more no excavation for building purposes, whether or not completed, shall be left open for more than 6 months without proceeding with the erection of a building thereon. In the event any such excavation remains open for more than 6 months, the inspector of buildings or other designated officer in such town, village or city shall order that the erection of a building on the excavation begin forthwith or in the alternative that the excavation be filled to grade. The order shall be served upon the owner of the land or his agent and upon the holder of any encumbrance of record as provided in sub. (1). If the owner of the land fails to comply with the order within 15 days after service thereof upon him, the inspector of buildings or other designated officer shall cause the excavation to be filled to grade and the cost shall be charged against the real estate as provided in sub. (2). Subsection (3) shall also apply to orders issued under this subsection. This shall not be construed to impair the authority of any city or village to enact ordinances in this field.

History: 1951 c. 537, 562; 1955 c. 366.

Officers of a town who condemned a building are not individually liable for damages arising from their official acts, even if such actions were malicious. Baker v. Mueller, 127 F Supp. 722; 222 F (2d) 180.

The provision for review by the court provides due process. Since the proceeding is equitable in nature, there is no right to trial by jury. Baker v. Mueller, 222 F (2d) 180.

66.051 Power of municipalities to prohibit criminal conduct. The board or council of any town, village or city may:

(1) Prohibit all forms of gambling and fraudulent devices and practices;

(2) Cause the seizure of anything devised solely for gambling or found in actual use for gambling and cause the destruction of any such thing after a judicial determination that it was used solely for gambling or found in actual use for gambling;

(3) Prohibit conduct which is the same as or similar to that prohibited by s. 947.01 or 947.03.

History: 1955 c. 696; 1957 c. 97.

66.052 Offensive industry. (1) Any city council or village board may direct the location, management and construction of, and license (annually or otherwise), regulate or prohibit any industry, thing or place where any nauseous, offensive or unwholesome business may be carried on, within the city or village or within 4 miles of the boundaries, except that the Milwaukee, Menominee and Kinnickinnic rivers with their branches to the outer limits of the county of Milwaukee, and all canals connecting with said rivers, together with the lands adjacent to said rivers and canals or within 100 yards thereof, shall be deemed to be within the jurisdiction of the city of Milwaukee. Any town board as to the area within the town not now or hereafter licensed, regulated or prohibited by any city or village pursuant to the provisions of this section, shall have the same powers as provided in this section for cities and villages. Any such business conducted in violation of any city, village or town ordinance permitted to be enacted under the provisions of this section is declared to be a public nuisance and an action for the abatement or removal

thereof or to obtain an injunction to prevent the same may be authorized to be brought and maintained by the city council or village or town board in the name of this state on the relation of such city, village or town as provided in sections 280.01, 280.02 and 280.07, or as provided in section 146.125. The provisions of section 146.11 shall not be construed as any limitation upon the powers granted by this section. The provisions of section 146.12 shall not be construed as any limitation upon the powers granted by this section to cities or villages but powers granted to towns by this section shall be limited by the provisions of section 146.12 and any orders, rules and regulations promulgated thereunder.

(2) Any city or village may, subject to the approval of the town board of such town, by ordinance enact reasonable regulations governing areas where refuse, rubbish, ashes or garbage shall be dumped or accumulated in any town within one mile of the corporate limits of such city or village, so as to prevent nuisance.

66.053 Licenses for nonintoxicating and soda water beverages. (1) NONINTOXICATING BEVERAGES. (a) Each town board, village board and common council shall grant licenses to such persons as they deem proper for the sale of beverages containing less than one-half of one per centum of alcohol by volume to be consumed on the premises where sold and to manufacturers, wholesalers, retailers and distributors of such beverages, for which a license fee of not less than $5 nor more than $50, to be fixed by the board or council, shall be paid, except that where such beverages are sold, not to be consumed on the premises, the license fee shall be $5. Such license shall be issued by the town, village or city clerk, shall designate the specific premises for which granted and shall expire the thirtieth day of June thereafter. The full license fee shall be charged for the whole or a fraction of the year. No such beverages shall be manufactured, sold at wholesale or retail or sold for consumption on the premises, or kept for sale at wholesale or retail, or for consumption on the premises where sold without such license.

(am) In case of removal of the place of business from the premises designated in the license to another location in the town, village or city within the license period, the licensee shall give notice of such change of location, and the license shall be amended accordingly without payment of additional fee. No such license, however, shall be transferable from one person to another.

(b) No license or permit shall be granted to any person, unless to a domestic corporation, not a citizen of the United States and of this state and a resident of the town, village or city in which such license is applied for, nor to any person who has been convicted of a felony, unless such person has been restored to civil rights.

(c) Each town board, village board and common council shall have authority by resolution or ordinance to adopt such regulations as it may deem reasonable and necessary regarding the location of licensed premises, the conduct thereof, the sale of beverages containing less than one-half of one per centum of alcohol by volume and the revocation of any license or permit.

(2) SODA WATER BEVERAGES. Each town board, village board and common council of any city may grant licenses to such persons as they deem proper for the sale of soda water beverages, as defined in section 97.09, to be consumed on or off the premises where sold. Such license fee shall be fixed by such governing body of such city, village or town but shall not exceed $5. The license shall be issued by the town, city or village clerk, shall designate the specific premises for which granted and shall expire on the thirtieth day of June thereafter. Each such governing body shall have authority by resolution or ordinance to adopt such regulations as it may deem reasonable and necessary regarding the location of licensed premises, the conduct thereof and the revocation of any such license.

66.054 Licenses for fermented malt beverages. (1) DEFINITIONS. As used in this subsection:

(a) "Brewer" shall mean any person, firm or corporation who shall manufacture for the purpose of sale, barter, exchange or transportation fermented malt beverages as defined herein.

(b) "Bottler" shall mean any person, firm or corporation, other than a brewer, who shall place in bottles fermented malt beverages as hereinafter defined, for the purpose of sale, barter, exchange, transportation, offering for sale, or having in possession with intent to sell.

(c) "Wholesaler" shall mean any person, firm or corporation, other than a brewer or bottler, who shall sell, barter, exchange, offer for sale, have in possession with intent to sell, deal or traffic in fermented malt beverages as herein defined, in quantities of not less than 4½ gallons at one time, not to be consumed in or about the premises where sold.

(d) "Retailer" shall mean any person who shall sell, barter, exchange, offer for sale or have in possession with intent to sell, any fermented malt beverages in quantities of less than 4½ gallons at any one time.

(e) "Permit" shall mean a permit issued to a brewer or bottler by the commissioner of internal revenue of the United States.

(f) "Operator" shall mean any person who shall draw or remove any fermented malt beverage for sale or consumption from any barrel, keg, cask, bottle or other container in which fermented malt beverages shall be stored or kept on premises requiring a Class "B" license, for sale or service to a consumer for consumption in or upon the premises where sold.

(g) "License" shall mean an authorization or permit issued by the city council or village or town board, relating to the sale, barter, exchange, or traffic in fermented malt beverages.

(h) "Application" shall mean a formal written request filed with the clerk of the town, city or village in which the applicant shall be a resident, for the issuance of a license, supported by a verified statement of facts.

(i) "Regulation" shall mean any reasonable rule or ordinance adopted by the council or board of any city, village or town, not in conflict with the provisions of any statute of the state of Wisconsin.

(j) "Fermented malt beverages" shall mean any liquor or liquid capable of being used for beverage purposes, made by the alcoholic fermentation of an infusion in potable water of barley malt and hops, with or without unmalted grains or decorticated and degerminated grains or sugar containing one-half of one per cent or more of alcohol by volume.

(k) "Brewery premises" shall mean and include all land and all buildings used in the manufacture or sale of fermented malt beverages at a brewer's principal place of business.

(3) LABELS. (a) Every brewer shall file with the commissioner of taxation, in such form as he shall prescribe, proof that said brewer is the possessor of a permit, together with the permit number assigned to him. The commissioner shall thereupon register such permit number in the name of said brewer. Every bottler shall make application to the commissioner for the assignment to him of a registration number, which shall be registered in the name of said bottler. The numbers so registered shall appear in plain and legible type upon a label which shall be affixed by each brewer or bottler to every barrel, keg, cask, bottle, or other container in which fermented malt beverage shall be packed by said brewer or bottler.

(b) No fermented malt beverage shall be sold, bartered, exchanged, offered or exposed for sale, kept in possession with intent to sell, or served in any licensed premises unless there shall be placed upon each barrel, keg, cask, bottle or other container a label bearing the name and address of the brewer or bottler manufacturing or bottling said beverage and, in plain legible type, the registration number of said brewer or bottler.

(c) The possession of any fermented malt beverages in or about any licensed premises which shall not be labeled as herein provided, except upon premises of a brewer or bottler, shall be deemed prima facie evidence that such products are kept and possessed with intent to sell, offer for sale, display for sale, barter, exchange or give away such fermented malt liquor.

(4) RESTRICTIONS ON BREWERS, BOTTLERS AND WHOLESALERS. (a) No brewer, bottler or wholesaler shall furnish, give, lend, lease or sell any furniture, fixtures, fittings, equipment, money or other thing of value, directly or indirectly, or through a subsidiary or affiliate corporation, or by any officer, director, stockholder or partner thereof, to any Class "B" licensee, or to any person for the use, benefit or relief of any Class "B" licensee, or guarantee the repayment of any loan, or the fulfillment of any financial obligation of any Class "B" licensee; except that brewers, bottlers and wholesalers may:

1. Furnish, give, lend or rent outside and inside signs to Class "B" licensees provided the value of such signs, in the aggregate, furnished, given, lent or rented by any brewer, bottler or wholesaler to any Class "B" licensee, shall not exceed $125 exclusive of erection, installation and repair charges, but nothing herein shall be construed as affecting signs owned and located in the state of Wisconsin on May 24, 1941 by any brewer, bottler or wholesaler;

2. Furnish miscellaneous advertising matter and other items not to exceed, in the aggregate, the value of $25 in any calendar year to any one Class "B" licensee;

3. Furnish or maintain for Class "B" licensees such equipment as is designed and intended to preserve and maintain the sanitary dispensing of fermented malt beverages, provided the expense incurred thereby does not exceed the sum of $25 per tap per calendar year no part of which shall be paid in cash to any Class "B" licensee;

4. Sell dispensing equipment such as direct draw boxes, novelty boxes, coil boxes, beer storage boxes or trapping equipment, none of which shall include bar additions, to Class "B" licensees for cash or on credit payable in equal monthly payments within 2 years to be evidenced by a written contract or chattel mortgage setting forth all of the

terms, conditions and monthly payments agreed on, and within 10 days after execution of the same the seller shall file with the register of deeds for the county wherein such equipment is installed a true copy of such contract or chattel mortgage and pay a filing fee of 50 cents; and

5. Acquire within 5 days after May 24, 1941, any furniture, fixtures, fittings and equipment, or any valid lien thereon or interest therein, which were actually installed in this state on the premises of any Class "B" licensee prior to said date, and may lease or lend the same to Class "B" licensees who are in possession or to any person in possession of the premises where the same are actually installed prior to said date. Any brewer, bottler or wholesaler who shall repossess any furniture, fixtures, fittings or equipment lent, leased or sold to any Class "B" licensee may sell the same to any Class "B" licensee, for cash on delivery only, and deliver a bill of sale of the same. Any application for Class "B" license after said date made for the sale of fermented malt beverages shall have appended thereto and made a part thereof, an affidavit, sworn and acknowledged under oath, by the applicant for such license, setting forth the ownership of the fixtures in or attached to the premises, or any part thereof, and if such fixtures are not owned by the applicant for such license, the manner, terms and conditions under which said fixtures are held. No brewer, bottler or wholesaler shall after said date, directly or indirectly, or through a subsidiary or affiliate corporation, or by any officer, director, stockholder or partner enter into any written agreement, and no written or oral agreement shall be valid, whether or not incorporated in any chattel mortgage, conditional sales contract, bill of sale, lease, land contract, mortgage, deed or other instrument wherein or whereby any Class "B" licensee is required to purchase the fermented malt beverages of any brewer to the exclusion, in whole or in part, of fermented malt beverages manufactured by other brewers. The restrictions contained in this subsection shall not apply to real estate owned in whole or in part on said date by any brewer, bottler or wholesaler, directly or indirectly, or by any subsidiary or affiliate corporation, or by any officer, director, stockholder, partner or trustee for any of the foregoing, or upon which any of the foregoing had or held a valid subsisting lien on said date, or to any real estate now or hereafter owned in whole or in part by any of the foregoing upon which there is or shall be a hotel of 100 or more rooms. Nothing herein contained shall affect the extension of usual and customary commercial credits for products of the industry actually sold and delivered. Any licensee who shall be a party to any violation of this subsection or who shall receive the benefits thereof shall be equally guilty of a violation of the provisions thereof.

6. Sell consumable merchandise intended for resale, including the sale or loan of containers thereof, in the regular course of business.

(b) A brewer may maintain and operate a place in and upon the brewery premises and a place in and upon real estate owned by a brewer, or subsidiary or affiliate corporation for the sale of fermented malt beverages for which a Class "B" license shall be required for each place but not more than 2 such Class "B" licenses shall be issued, and in addition a brewer may own, maintain and operate a place or places for the sale of fermented malt beverages on any state or county fairgrounds located within this state. Any Class "B" licenses necessary in connection with this subsection shall be issued to the brewer. A brewer may own the furniture, fixtures, fittings, furnishings and equipment used therein and shall pay any license fee or tax required for the operation of the same. Brewers may without license therefor, furnish fermented malt beverages free of charge to customers, visitors and employes on the brewery premises and no license fee shall be required of any such brewer, if such fermented malt beverages so furnished shall be consumed on the brewery premises and if fermented malt beverages shall not be furnished or consumed in or about any room or place where intoxicating liquors, as defined by section 176.01, are sold.

(c) A brewer or bottler may own and operate depots or warehouses, from which sales of fermented malt beverages, not to be consumed in or about the premises where sold, may be made in original packages in quantities of not less than 4½ gallons at any one time. A separate wholesaler's license shall be required for each warehouse or depot maintained or operated.

(d) "Brewers" and "bottlers" who shall desire to sell (in the original packages or containers) fermented malt beverages not to be consumed in or upon the premises where sold, shall be required to obtain a wholesaler's license if said fermented malt beverages are sold in quantities of not less than 4½ gallons at any one time, or a Class "A" license if such sales are made in quantities of less than 4½ gallons at any one time.

(5) LICENSES; GENERAL REQUIREMENTS. (a) No person shall sell, barter, exchange, offer for sale, or have in possession with intent to sell, deal or traffic in fermented malt beverages, unless licensed as provided in this section by the governing board of the city, village or town in which the place of business is located, provided that in case of a foreign corporation whose wholesale place of business is located outside of the state such whole-

saler's license shall be issued by the governing board of a city, village or town in which is conducted some part of such wholesaler's business in this state, provided, however, that no license shall be required to authorize the solicitation of orders for sale to be made to or by licensed wholesalers, provided that nothing herein shall prohibit brewers from manufacturing, possessing or storing fermented malt beverages on the brewery premises or from transporting fermented malt beverages between such brewery premises and any depot or warehouse maintained by such brewer for which such brewer has a wholesaler's license as provided in subsection (6).

(b) The governing body of every city, village and town shall have the power, but shall not be required, to issue licenses to wholesalers and retailers for the sale of fermented malt beverages within its respective limits, as herein provided. Said retailers' licenses shall be of 2 classes, to be designated as Classes "A" and "B."

(c) The electors of any city, village or town may, by ballot, at the spring election, determine whether or not Class "B" retail licenses shall be issued for the sale of fermented malt beverages for consumption on or off the premises where sold, or whether or not Class "A" retail licenses shall be issued for the sale of fermented malt beverages for consumption away from the premises where sold, provided that whenever a number of qualified electors of any city, village or town equal to, or more than, 15 per centum of the number of votes cast therein for governor at the last general election, shall present to the clerk thereof a separate petition on each question, in writing, signed by them, praying that the electors thereof may have submitted to them any such question and shall file such petition with the clerk at least 30 days prior to the first Tuesday of April next succeeding. Within 5 days of the filing of any such petition such clerk shall determine by careful examination the sufficiency or insufficiency thereof and state his findings in a signed certificate dated and attached to such petition, and within 5 days give written notice to the commissioner of taxation, at Madison, Wisconsin, that such petition has been filed with him, stating the question to be submitted, the date of filing such petition, the name of the town, its post-office address, village or city, and such clerk after and not until he shall have determined that such petition is sufficient and shall have given the notice to the commissioner of taxation as hereinabove set forth, shall forthwith make an order providing that such question shall be so submitted on the first Tuesday of April next succeeding the date of such order. Said petition must be circulated by one or more qualified voters residing in the town, village or city wherein such local option question will be submitted. The preparation of such petition shall be governed as to the use of more than a single sheet of paper, the dates of signatures, the places of residence of signers, and verification thereof, by the provisions of section 5.05 as far as applicable. No petition shall be circulated prior to 60 days before the date on which it must be filed, and no signature shall be counted unless it has been affixed to such petition and bears date within 60 days prior to the time for the filing thereof. At such election a separate ballot box shall be provided for such ballots. Such ballots shall conform to the provisions of section 6.23 (8).

Any question so submitted shall be upon a separate ballot and the ballot relating to the question of whether or not Class "B" retail license shall be issued shall be upon yellow print paper and the ballot relating to the question whether or not Class "A" retail license shall be issued upon light green print paper. The question shall read as follows:

Shall Class "B" license (taverns, hotels, restaurants, clubs, societies, lodges, fair associations, etc.) be issued for the retail sale of beer for consumption on or off the premises where sold?

Yes. ☐ No. ☐

Shall Class "A" license (stores, etc.) be issued for the retail sale of beer in original packages to be consumed away from the premises where sold?

Yes. ☐ No. ☐

The city clerk making such order shall give notice of the election to be held on any such question in the manner notice is given of the regular city election; town and village clerks who make such orders shall give such notice by posting written or printed notices in at least 5 public places in the town or village not less than 10 days before the date of election. The election on such question or questions shall be held and conducted and the returns canvassed in the manner in which elections in such city, town or village on other questions are conducted and the returns thereof canvassed. The results shall be certified by the canvassers immediately upon the determination thereof, and be entered upon the records of the town, village or city, and within 10 days such clerk shall notify the commissioner of taxation of the results of such election. Such result shall remain in effect for a period of 2 years and thereafter until changed by ballot at another election held for the same purpose. If the results of such election shall prohibit the issuance of Class "A" and Class "B" retail licenses the town, village, or city may nevertheless issue wholesalers'

licenses to applicants who qualify under subsection (6), but on condition that such wholesaler shall not make any sale and delivery of fermented malt beverages in such town, village or city to any person, firm or corporation residing in such town, village or city.

(d) All licenses shall be granted only upon written application and shall be issued for a period of one year to expire on the 30th day of June. A separate license shall be required for each place of business. Said licenses shall particularly describe the premises for which issued, shall not be transferable, and shall be subject to revocation for violation of any of the terms or provisions thereof or of any of the provisions of this section. As soon as an application for a license has been approved a duplicate copy thereof shall be forwarded to the commissioner of taxation.

(e) No license shall be imposed upon the sale of fermented malt beverages upon any railroad sleeping, buffet or cafe car or steamboat or aircraft while in transit or in any public park operated by any county, city, town or village when sold by officers or employes thereof pursuant to any ordinance, resolution, rule or regulation enacted by the governing body of such municipality where the receipts from such sales go into the public treasuries.

(6) WHOLESALERS' LICENSES. Wholesalers' licenses may be issued only to domestic corporations, to foreign corporations licensed under chapter 180 to do business in this state or to persons of good moral character who shall have been residents of this state continuously for not less than one year prior to the date of filing application for said license. Said licenses shall authorize sales of fermented malt beverages only in original packages or containers and in quantities of not less than 4½ gallons at any one time, not to be consumed in or about the premises where sold. The fee for a wholesaler's license shall not exceed $25 per year or fractional part thereof.

(6a) SPECIAL WHOLESALERS' LICENSES. 1. Special wholesalers' licenses may be issued to any holder of a retail Class "B" license for the sale of fermented malt beverages which will permit the sale of fermented malt beverages in original packages or containers and in quantities of not less than 4½ gallons at any one time for consumption on the premises.

2. The annual fee charged for a special wholesalers' license shall not exceed $25.

(7) CLASS "A" RETAILERS' LICENSES. Class "A" retailers' licenses shall be issued only to domestic corporations, to foreign corporations engaged in the manufacture of fermented malt beverages and licensed under ch. 180 to do business in this state or to persons of good moral character who are citizens of the United States and of the state of Wisconsin and have resided in this state continuously for not less than one year prior to the date of the filing of application for said license. Said license shall authorize sales of fermented malt beverages only for consumption away from the premises where sold and in the original packages, containers, or bottles. The license fee for a Class "A" license shall not exceed $10 per year or fractional part thereof. Not more than 2 Class "A" licenses shall be issued in the state to any one corporation or person, and in each application for a Class "A" license the applicant shall state that he has not made application for more than one other Class "A" license for any other location in the state. No such license shall be issued to any person acting as agent for or in the employ of another.

(8) CLASS "B" RETAILERS' LICENSES. (a) Class "B" retailers' licenses shall be issued only to persons 21 years of age or over of good moral character, who shall be citizens of the United States and of the state of Wisconsin, and shall have resided in this state continuously for not less than one year prior to the date of the filing of the application. No such license shall be granted for any premises where any other business shall be conducted, in connection with said licensed premises and no other business may be conducted on such licensed premises after the granting of such license except that such restriction shall not apply to a hotel, or to a restaurant not a part of or located in any mercantile establishment, or to a combination grocery store and tavern, or to a bowling alley or recreation premises or to a bona fide club, society or lodge that shall have been in existence for not less than 6 months prior to the date of filing application for such license. Not more than 2 Class "B" licenses shall be issued in the state to any one person, and in each application for a Class "B" license the applicant shall state that he has not made application for more than one other Class "B" license for any other location in the state. No such license shall be issued to any person acting as agent for or in the employ of another, except that this restriction shall not apply to a hotel or to a restaurant not a part of or located in or upon the premises of any mercantile establishment, or to a bona fide club, society or lodge that shall have been in existence for not less than 6 months prior to the date of application. Such license for a hotel, restaurant, club, society or lodge may be taken in the name of an officer or manager, who shall be personally responsible for compliance with all of the terms and provisions of this section. The provisions of section 176.05 (13) relating to the issuance of licenses to domestic or foreign corporations for the sale of intoxicating liquor and to the appointment of agents and successor agents by

such corporations shall also be applicable to Class "B" retailers' licenses issued to domestic or foreign corporations for the sale of fermented malt beverages.

(b) The amount of the license fee shall be determined by the city, village or town in which said licensed premises are located, but said license fee shall not exceed $100 per year, but licenses may be issued at any time for a period of 6 months in any calendar year for which three-fourths of the license fee shall be paid. Such 6 months' licenses shall not be renewable during the calendar year in which issued. Licenses may also be issued to bona fide clubs, state, county or local fair associations or agricultural societies, lodges or societies that have been in existence for not less than 6 months prior to the date of application or to posts now or hereafter established, of ex-service men's organizations, authorizing them to sell fermented malt beverages at a particular picnic or similar gathering, or at a meeting of any such post, or during a fair conducted by such fair associations or agricultural societies, for which a fee of not to exceed $10 may be charged as fixed by the governing board. All Class "B" licenses shall be posted in a conspicuous place in the room or place where fermented malt beverages are drawn or removed for service or sale, except such licenses issued to the state fair or to county or district fairs receiving state aid. Such license when issued to the state fair or to a county or district fair shall license and cover the entire fairgrounds where a fair is being conducted and all operators thereon retailing and selling fermented malt beverages from let stands. The state fair or county or district fair to which such license is issued may let stands on such fairgrounds to operators who may retail and sell fermented malt beverages therefrom while the fair is being held, and no such operator is required to obtain an operator's license when retailing and selling such beverages on grounds of fairs receiving state aid or of the state fair.

(c) Persons holding a Class "B" license may sell fermented malt beverages either to be consumed on the premises where sold or away from such premises. They may also sell beverages containing less than one-half of one per centum of alcohol by volume without obtaining a special license to sell such beverages under section 66.053 (1).

(d) Every holder of a Class "B" retailer's license selling or offering for sale draught fermented malt beverages to be consumed on or off the premises shall display a sign on, over or near each tap or faucet disclosing the brand of beer drawn from each tap or faucet and the name of the manufacturer of the beer on tap, visible to patrons for a distance of at least 10 feet so that every patron may be informed of the brand of fermented malt beverages on tap. No such licensee shall substitute any other brand of fermented malt beverage in place of the brand so designated by such visible sign and every licensee who shall violate this paragraph shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than $15 and the provisions in sub. (15) shall not apply on account of any violations of this paragraph.

(e) It shall be unlawful for any person, licensee or the agent, servant or employe of any licensee, to possess on the premises covered by such license, any alcoholic beverage that is not authorized by law to be sold on such premises.

(8a) RETAIL PURCHASE RESTRICTIONS. (a) No retail licensee under sub. (7) or (8) shall receive, purchase or acquire fermented malt beverages directly or indirectly from any licensee except upon terms of cash or credit for not exceeding 15 days.

(b) No retail licensee shall receive any malt beverages on consignment or on any basis other than a bona fide sale.

(c) No retail licensee shall receive, purchase or acquire fermented malt beverages directly or indirectly from any licensee if at the time of such receipt, purchase or acquisition he is indebted to any licensee for fermented malt beverages received, purchased, acquired or delivered more than 15 days prior thereto.

(d) For the purpose of this subsection, a person holding both a wholesale and retail license is deemed a retailer.

(f) No class "A" or class "B" retailer's license shall be issued for a term beginning on or after July 1, 1956, to any person having any indebtedness to any licensee of more than 15 days' standing. In each application for a license for a term beginning on or after July 1, 1956, the applicant shall state whether or not he has any indebtedness to any licensee which has been outstanding more than 15 days.

(g) No brewer, bottler or wholesaler shall be subject to any penalty as the result of any sale of fermented malt beverages to a retail licensee, when purchased by said retail licensee in violation of this subsection.

(h) Any retail licensee who violates this subsection shall be subject to the suspension or revocation of his retail license under sub. (17) and the penalties prescribed in sub. (15) (a), except that he shall not be imprisoned.

(9) CONDITIONS OF LICENSES. Wholesalers' and retailers' licenses shall be issued subject to the following restrictions:

(a) No fermented malt beverages shall be sold or consumed upon any licensed premises during such hours as may be prohibited by local ordinance.

(b) No fermented malt beverages shall be sold, dispensed, given away or furnished to any person under the age of 18 years unless accompanied by parent or guardian.

(c) No fermented malt beverages shall be sold to any person who is intoxicated.

(d) No beverages of an alcoholic content prohibited by the laws of the United States shall be kept in or about licensed premises.

(e) No fermented malt beverages shall be sold unless the barrel, keg, cask, bottle or other container containing the same shall have thereupon at the time of sale a label of the kind and character required by subsection (3). Every bottle shall contain upon the label thereof a statement of the contents in fluid ounces, in plain and legible type.

(f) No person licensed under this section shall use the word "saloon" upon any sign or advertising or as a designation of any premises in or upon which fermented malt beverages are sold or kept for sale.

(g) No fermented malt beverages shall be sold, dispensed, given away, or furnished to any person under the age of 21 years who is not a resident of this state and is a resident of any state bordering on Wisconsin which prohibits the sale of fermented malt beverages to any person under the age of 21 years unless he is accompanied by parent or guardian or spouse. For the purposes of this subsection, students may be deemed residents of the municipality in which they reside while attending school and members of the armed services may be deemed residents of the municipality in which they are stationed at the time.

(10) CLOSING HOURS. (a) In any county having a population of less than 500,000 no premises for which a retail Class "B" license has been issued shall be permitted to remain open between 1 a. m. and 8 a. m. (except on January 1 when the closing hours shall be between 3 a. m. and 8 a. m.) or on any day on which a spring primary or spring election, September primary or general election as defined in s. 5.01 is held, or a special primary or special election to fill a vacancy in a state or national office is held, until after the polls of such election or primary are closed.

(b) Hotels and restaurants whose principal business is the furnishing of food or lodging to patrons, and bowling alleys and golf courses, shall be permitted to remain open for the conduct of their regular business but shall not be permitted to sell fermented malt beverages during the hours mentioned in par. (a).

(c) This subsection shall not prevent or interfere with any town, village or city to require by ordinance or resolution the closing of such taverns at an hour earlier than provided herein.

(11) OPERATORS' LICENSES. (a) Every city council, village or town board may issue a license known as an "Operator's" license, which shall be granted only upon application in writing, and which shall not be required of any person or for any purpose other than to comply with par. (b). Said operator's license shall be issued only to persons 21 years of age or over, of good moral character, who have been citizens of the United States and residents of this state continuously for not less than one year prior to the date of the filing of the application. Such licenses shall be operative only within the limits of the city, village or town in which issued. For the purpose of this subsection any member of the immediate family of the licensee shall be considered as holding an operator's license.

(b) There shall be upon premises operated under a Class "B" license, at all times, the licensee or some person who shall have an operator's license and who shall be responsible for the acts of all persons serving as waiters, or in any other manner, any fermented malt beverages to customers. No person other than the licensee shall serve fermented malt beverages in any place operated under a Class "B" license unless he shall possess an operator's license, or unless he shall be under the immediate supervision of the licensee or a person holding an operator's license, who shall be at the time of such service upon said premises.

(c) The fee for an operator's license shall not exceed $5 per year, shall be issued for one year, and shall expire on June 30 of the year for which issued, except for cities of the first class in which such license shall expire on December 31.

(d) Any violation of any of the terms or provisions of this section by any person holding an operator's license shall be cause for revocation of said license.

(12) LOCAL ENFORCEMENT. The common council of any city, the board of trustees of any village and the town board of any town may adopt any reasonable rule or regulation for the enforcement of this section not in conflict with the provisions of any statute.

(13) MUNICIPAL REGULATIONS. Nothing in this section shall be construed as prohibiting or restricting any city, village or town ordinances from placing additional regulations in or upon the sale of fermented malt beverages, not in conflict with the terms and provisions of this section but any city, village or town may by ordinance prohibit the selling, dispensing, giving or furnishing fermented malt beverages to anyone under 21 years of

age when not accompanied by parent or guardian or spouse, and all such ordinances duly enacted before August 5, 1955 and otherwise valid are hereby declared to be valid. This subsection does not give any municipal corporation the power to enact an ordinance forbidding persons between the ages of 18 and 21 years from acting as check-out clerks or delivery personnel in grocery stores licensed to sell fermented malt beverages or from preventing such check-out clerks from including fermented malt beverages in the items which they are permitted to sell or preventing such delivery personnel from delivering fermented malt beverages from the licensed premises to the cars or homes of customers.

(14) COURT REVIEW. (a) The action of any city council, village or town board in the granting or revocation of any license, or the failure of said city council, village or town board to revoke any license for good cause because of the violation of any of the provisions of this section may be reviewed by any court of record in the county in which the application for said license was filed or said license issued, upon application by any applicant, licensee or any citizen of such city, town or village.

(b) The procedure in said review shall be the same as in civil actions instituted in said court. The person desiring such review shall file his pleadings, which shall be served upon the city council, village or town board in the manner provided for service in civil actions by statute, and a copy thereof shall be served upon the licensee. The said city council, village or town board or licensee shall have 20 days within which to file his or their answer to said complaint, and thereupon said matter shall be deemed at issue and hearing may be had before the presiding judge of said court within 5 days, upon due notice served upon the opposing party. The hearing shall be before the presiding judge without a jury. Subpoenas for witnesses shall be issued and their attendance compelled, in accordance with the provisions of statute relating to civil proceedings. The decision of the presiding judge shall be filed within 10 days thereafter, and a copy thereof transmitted to each of the parties, and said decision shall be binding unless appeal be had to the supreme court in the manner provided by statute for appeals in civil actions.

(15) PENALTIES. (a) Any person who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than $500, or by imprisonment in the county jail for a term of not more than 90 days, or by both such fine and imprisonment, and his license shall be subject to revocation by a court of record in its discretion. Any city, village or town may, by ordinance, prescribe different penalties than those provided in this section, and may provide that the license may be revoked by a court of record in the court's discretion. No city, village or town shall pass any ordinance which shall fix the penalty for violation of any ordinance so that the same shall be greater than the maximum provided by this section. In event that such person shall be convicted of a second offense, under the provisions of this section such offender, in addition to the penalties herein provided, shall forthwith forfeit any license issued to him without further notice, and in the event that such person shall be convicted of a felony, in addition to the penalties provided for such felony, the court shall revoke the license of such offender. Every town, village or city shall have the right to revoke any license by it issued to any person who shall violate any of the provisions of this section or any municipal ordinance adopted pursuant thereto. No license shall thereafter be granted to such person for a period of one year from the date of such forfeiture.

(b) Any person, other than the person or corporation registering the same, who shall place upon any barrel, keg, cask, bottle, or other container containing any fermented malt beverage any label bearing a number registered by any other person or corporation, or who shall place upon any label a permit number not registered in the office of the commissioner of taxation shall be guilty of a misdemeanor, and upon conviction shall be punished by imprisonment in the county jail for not more than one year.

(16) LEGISLATIVE INTENT. (a) The provisions of this section shall be construed as an enactment of state-wide concern for the purpose of providing a uniform regulation of the sale of fermented malt liquors.

(17) REVOCATION ON COMPLAINT OF COMMISSIONER OF TAXATION. (a) Upon complaint in the name of the state filed by the commissioner of taxation, or any of his employes employed under section 139.03 (11) as he may designate, with the clerk of any court of record in the jurisdiction in which the premises of the licensed person complained of are situated, that any such licensed person therein has at any time violated any provision of this section, or keeps or maintains a disorderly or riotous, indecent or improper house, or that he has at any time illegally sold or given away any malt beverages to any minor, or to persons intoxicated or bordering on intoxication, or to known habitual drunkards, or has failed to maintain said premises in accordance with the standards of sanitation prescribed by the state board of health, or in whose licensed premises known criminals or

prostitutes are permitted to loiter, or that he has at any time been convicted of a violation of any federal or state law involving moral turpitude or been convicted of any felony or any offense against the laws relating to sale of intoxicating liquors or fermented malt beverages, or that he does not possess the qualifications required by this section to entitle him to a license, the clerk of said court shall issue a summons commanding the person so complained of to appear before it within 20 days after service of the summons, exclusive of the day of service, and show cause why his license should not be revoked or suspended.

(b) The procedure thereon and the effect of the order of the court shall be as prescribed in section 176.121.

(18) INFORMATION REQUISITE TO VALIDITY. No license issued by any local authority under the provisions of this section shall be valid unless and until it shall have affixed thereto an affidavit signed under oath by the clerk issuing said license that a copy of the application for such license and all information required by law to be furnished by the licensing body to the commissioner of taxation relating to such applicant and license has been mailed to the commissioner of taxation at Madison, Wisconsin.

(19) PRESENCE IN PLACES OF SALE PROHIBITED; PENALTY. Every keeper of any place, of any nature or character, whatsoever, for the sale of any fermented malt beverage under a "Class B" retailer's license, who shall directly or indirectly suffer or permit any person of either sex under the age of 18 years, unaccompanied by his or her parent or guardian, who is not a resident, employe or a bona fide lodger or boarder on the premises controlled by the proprietor or licensee of such place, and of which such place consists or is a part, to enter or be on such licensed premises for any purpose, excepting the transaction of bona fide business other than amusement, the purchase, receiving or consumption of edibles or beverages, shall, for every such offense, be liable to a penalty not exceeding $250, besides costs, or imprisonment not exceeding 60 days; and any such person so entering or remaining as aforesaid, who is not a resident, employe or a bona fide lodger or boarder on such premises, or who is not accompanied by his or her parent or guardian, shall also be liable to a penalty of not more than $20, besides costs. This subsection shall not apply to hotels, drug stores, grocery stores, bowling alleys, premises in the state fair park, concessions authorized on state-owned premises in the state parks and state forests as defined or designated in chs. 27 and 28, parks owned or operated by agricultural societies receiving state aid, cars operated on any railroad, regularly established athletic fields or stadiums nor to premises operated under both a "Class B" license and a restaurant permit where the principal business conducted therein is that of a restaurant. It shall be presumed where such premises are so operated under both a "Class B" license and a restaurant permit, that the principal business conducted therein is that of the sale of fermented malt beverage, until such presumption is rebutted by competent evidence. The provisions of sub. (15) providing for punishment of violators of this section by fine and imprisonment shall not apply to this subsection. This prohibition shall apply to any person who is not a resident, employe or a bona fide lodger or boarder on such premises, after the legal hour for closing.

(20) PROCURING FOR OR FURNISHING TO PERSON UNDER 18; PENALTY. Any person who shall procure for, sell, dispense, give away or furnish fermented malt beverages to any person under the age of 18 years not accompanied by parent or guardian or spouse shall be punished by a fine of not more than $500, or by imprisonment in the county jail or house of correction not to exceed 60 days, or by both such fine and imprisonment.

(21) PEDDLING PROHIBITED. No person shall peddle any fermented malt beverage from house to house by means of a truck or otherwise where the sale is consummated and delivery made concurrently.

(22) FURNISHING TO NONRESIDENT PERSONS UNDER 21. No person shall sell, dispense, give away or furnish any fermented malt beverages to any person under the age of 21 years who is not a resident of this state and is a resident of any state bordering on Wisconsin which prohibits the sale of fermented malt beverages to any person under the age of 21 years, and no such person shall possess any fermented malt beverages, unless he is accompanied by parent or guardian or spouse. For the purposes of this subsection, students may be deemed residents of the municipality in which they reside while attending school and members of the armed services may be deemed residents of the municipality in which they are stationed at the time.

(23) LICENSES TO COUNTRY CLUBS. All "Class B" licenses issued to clubs, as defined in s. 176.01 (8), that are operated solely for the playing of golf or tennis, which are commonly known as country clubs, and are not open to the general public, and including yachting clubs, shall be issued by the commissioner of taxation if no such licenses are issued by the governing body, for an annual fee of $10 which shall be paid to the treasurer of the town, city or village in which such club is located. The provisions of sub. (17),

relative to the revocation of licenses shall apply to all licenses issued by the commissioner hereunder, and, except as herein provided, all provisions of this chapter relating to "Class B" licenses for the sale of malt beverages shall apply to licenses issued to country clubs by the commissioner.

History: 1951 c. 65, 104, 215; 1951 c. 247 s. 21; 1951 c. 261 s. 10; 1951 c. 308, 727, 734; 1953 c. 61, 383; 1955 c. 88, 209, 350, 545, 564, 660; 1957 c. 96, 142, 267, 285, 304, 325, 641, 672, 677.

The evidence in this case warranted the jury's finding that a bartender "furnished" a can of beer to a 17-year-old minor who obtained it, when a few feet from the bar, from an adult companion who had bought and paid for 2 cans of beer. State v. Graves, 257 W 31, 42 NW (2d) 153.

See note to 59.07, citing Maier v. Racine County, 1 W (2d) 384, 84 NW (2d) 76.

(4) does not prohibit the furnishing of a sign to "Class A" licensee. 23 Atty. Gen. 191.

Employes of beverage tax division may not arrest for violation of this section. 23 Atty. Gen. 191.

Sale of carbon dioxide gas in drums by brewer to tavern keeper is illegal. 23 Atty. Gen. 503.

Town has authority to grant lessee of city-owned property within town boundaries a license for the sale of fermented malt beverages provided for by (8) (a). 38 Atty. Gen. 485.

Single premises under (8), may not have a "Class B" license for the sale of fermented malt beverages and also have a "Class A" license for the sale of intoxicating liquors. Licensed premises discussed. 38 Atty. Gen. 540.

It is permissible to allow minors in the restaurant portion of the building where beer only is sold if the principal business is the sale of food. 38 Atty. Gen. 540.

Direct draw boxes, novelty boxes, coil boxes, beer storage boxes, which include a mechanical refrigeration unit as an integral part thereof, may be sold by a brewer or wholesaler to a Class "B" licensee, under (4) (a) 4. Separate refrigerating systems may not be so sold. 40 Atty. Gen. 84.

The importation and sale of fermented malt beverages containing in excess of 5 per cent of alcohol by weight is governed by both the regulations affecting fermented malt beverages and the regulations affecting intoxicating liquors. An out-of-state brewery, which solicits orders and ships into Wisconsin fermented malt beverages containing in excess of 5 per cent of alcohol by weight, must secure a permit. If such brewery operates a warehouse or depot in this state, it must secure a wholesaler's license pursuant to 66.054. A wholesaler operating in this state must secure a wholesaler's permit and a selling permit. 40 Atty. Gen. 114.

Municipal governing body may determine not to issue more than a limited number of Class "B" retail fermented malt beverage licenses and may decline to issue additional licenses without reference to qualifications of applicant. 40 Atty. Gen. 146.

What constitutes the "usual and customary commercial credits" and the "usual and ordinary commercial credits" in the meaning of 66.054 (4) (a) and 176.17 (2) is a question of fact. Under federal regulations promulgated pursuant to the Federal Alcohol Administration Act, 27 U.S.C.A. s. 205, 30 days from the date of delivery is established as the maximum credit which may be extended to a retailer of intoxicating liquors and malt beverages. Responsibility for official determination in Wisconsin rests with the commissioner of taxation, under 176.43 (2). 41 Atty. Gen. 35.

(10) relating to closing of premises covered by Class "B" fermented malt beverage licenses has no application to premises covered by Class "A" fermented malt beverage licenses. There is no statute prohibiting such Class "A" licensees from remaining open and selling fermented malt beverages on election days or during hours when Class "B" licensees are required to be closed. 38 Atty. Gen. 349 distinguished. 41 Atty. Gen. 125.

A minor who is a member of the immediate family of the licensee is deemed to hold an operator's license under (11), notwithstanding the amendment of that subsection by ch. 104, Laws 1951, which prohibits issuance of an operator's license to any person under the age of 21. 41 Atty. Gen. 179.

Exemption of "grocery stores" from 66.054 (19) and 176.32 (1) relating to the presence of minors on premises licensed for the sale of fermented malt beverages and intoxicating liquors, respectively, does not extend to a separate room containing a bar where fermented malt beverages and intoxicating liquors but no groceries are sold, even though that room and the part of the premises where the grocery business is conducted are both covered by the fermented malt beverage or liquor license and constitute a single "premises" in the meaning of the fermented malt beverage and intoxicating liquor laws. 41 Atty. Gen. 340.

Under (4), a brewing company which owned real estate on May 24, 1941, which real estate is to be acquired by the city for street purposes, may not move the building from such parcel of land to another parcel and continue to own it while it is used for Class "B" retail fermented malt beverage license purposes. Where only a part of the land owned by the brewing company is taken for street purposes, the brewing company may not acquire contiguous land and erect a new building on the remaining portion of the original tract and upon the newly acquired contiguous tract, and use the same for a Class "B" retail fermented malt beverage license, without violating (4). 42 Atty. Gen. 24.

Under 176.06 and 176.34 the sale of fermented malt beverages containing 5 per cent or more of alcohol by weight is prohibited on election days until after the polls are closed. Under 66.054 (10) the sale of fermented malt beverages by "Class B" licensees (except in Milwaukee county) is likewise prohibited. But there is no prohibition against the sale of fermented malt beverages containing less than 5 per cent of alcohol by weight by "Class A" licensees or by wholesalers, or by "Class B" fermented malt beverage licensees in Milwaukee county. 43 Atty. Gen. 122.

Under (10) (a) taverns in municipalities where no election is being held are not required to close, notwithstanding that an election is being held in other municipalities within the county, except that where the polling place of an adjacent town which is holding an election is located in a city which is not holding an election, taverns in the city must close. If a primary election is being held in any precinct in a city, all taverns in the city are required to close. 43 Atty. Gen. 138.

See note to 176.05, citing 44 Atty. Gen. 40.

Subject only to exceptions enumerated, the furnishing, giving, or lending of money or other thing of value by either a brewer, bottler, or wholesaler to a trade association comprised of holders of Class "B" licenses is prohibited by (4) (a). The same rule applies to the purchase of advertising space in publications of such an association. 44 Atty. Gen. 34, 91.

66.055 Liquor and beer license application records. In any city of the first class, all applications made to it for licenses for the sale of fermented malt beverages and intoxicating liquor and all records and files pertaining to such applications in possession of the city clerk and which are more than 4 years old may be destroyed by him.

66.057 Tavern-keeper shall require proof of age. (1) Any person in premises operating under a Class "A" or Class "B" retailer's license for the sale of fermented malt beverages or in premises operating under a "Retail Class A" or a "Retail Class B" license for the sale of intoxicating liquor shall, upon demand of the person in charge of such premises or of any law enforcement officer show a certificate-card issued by the register of deeds of any county or the clerk of the city, village or town of his residence or election commission thereof, stating the date of his birth and other matters as provided in sub. (2), or be regarded as a person under the age of 18 years if in premises operating under a Class "A" or a Class "B" retailer's license for the sale of fermented malt beverages or under the age of 21 years if in the premises operating under a "Retail Class A" or a "Retail Class B" license for the sale of intoxicating liquor.

(2) Any person desiring such certificate-card shall make application therefor to the register of deeds of any county or the clerk of the city, village or town of his residence or election commission thereof. The applicant shall pay a fee of 50 cents and in cities of the first class 75 cents and furnish his individual photograph and such proof of the date of his birth as the register of deeds or such clerk or commission shall require. If the register of deeds or such clerk or commission is satisfied with the proof he shall issue his certificate-card which shall show the applicant's name, description, residence, date of birth, photograph and signature and shall cause said certificate-card to be enclosed in a hermetically sealed, transparent, tamper-proof cover. The commissioner of taxation shall prescribe the form of the certificate-card, the size of the photograph to be furnished by the applicant and the manner and method of affixing it to the certificate. The register of deeds or such clerk or commission shall pay the fees received under this section into the treasury of his county or municipality. Any parent may upon application to such official procure a certificate-card for any of his minor children by supplying the child's photograph and proof as above required.

(3) If the person whose age may be in question is not a resident of the state and has no certificate-card as provided by subs. (1) and (2) the licensee or his agent or employe shall require the person whose age may be in question to fill out and sign in the presence of 2 witnesses, other than the licensee or his agents or employes, a statement in the following form:

STATEMENT OF AGE

...., 195.. (date)

I, ..., hereby represent to .... that my residence and post-office address is .... (street or route), ... (post office), state of ...., and that I am .... years of age, having been born on ...., 19.. (date of birth), at .... (place of birth). This statement is made to induce the licensee above named to sell or otherwise furnish fermented malt beverages or intoxicating liquor to the undersigned. I understand that I am subject to a fine of not less than $10 nor more than $50 or to imprisonment for not to exceed 10 days or both for any misrepresentation made herein.

In presence of

.... (signature) .... (signature)
.... (address) .... (address)
.... (signature)
.... (address)

(4) The statement provided by sub. (3) shall be printed upon a 3-inch by 5-inch or a 4-inch by 5-inch file card which shall be mailed by the licensee within 48 hours to the district attorney of the county in which his licensed premises are situated.

(5) The signed statement procured by the licensee at the time of sale may be offered as a defense in all civil and criminal prosecutions for serving fermented malt beverages or intoxicating liquors to persons who were not at the time residents of this state to whom sale is prohibited by law because of such person's age, and no penalty shall be imposed if the licensing authority or the court is satisfied that the licensee acted in good faith.

History: 1953 c. 522.

66.058 Mobile home parks. (1) DEFINITIONS. For the purposes of this section:

(a) "Licensee" means any person licensed to operate and maintain a mobile home park under this section.

(b) "Licensing authority" means the city, town or village wherein a mobile home park is located.

(c) "Park" means mobile home park.

(d) "Person" means any natural individual, firm, trust, partnership, association or corporation.

(e) "Mobile home" is that which is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway and designed, equipped and

used primarily for sleeping, eating and living quarters, or is intended to be so used; and shall include any additions, attachments, annexes, foundations and appurtenances.

(f) "Dependent mobile home" means a mobile home which does not have complete bathroom facilities.

(g) "Nondependent mobile home" means a mobile home equipped with complete bath and toilet facilities, all furniture, cooking, heating, appliances and complete year round facilities.

(h) "Unit" means a mobile home unit.

(i) "Mobile home park" means any plot or plots of ground upon which 2 or more units, occupied for dwelling or sleeping purposes are located, regardless of whether or not a charge is made for such accommodation.

(j) "Space" means a plot of ground within a mobile home park, designed for the accommodation of one mobile home unit.

(2) LICENSE AND REVOCATION OR SUSPENSION THEREOF. (a) It shall be unlawful for any person to maintain or operate within the limits of any city, town or village, any mobile home park unless such person shall first obtain from the city, town or village a license therefor. All such parks in existence on August 9, 1953 shall within 90 days thereafter, obtain such license, and in all other respects comply fully with the requirements of this section except that the licensing authority shall upon application of a park operator, waive such requirements that require prohibitive reconstruction costs if such waiver does not affect sanitation requirements of the city, town or village or create or permit to continue any hazard to the welfare and health of the community and the occupants of the park.

(b) In order to protect and promote the public health, morals and welfare and to equitably defray the cost of municipal and educational services required by persons and families using or occupying trailers, mobile homes, trailer camps or mobile home parks for living, dwelling or sleeping purposes, the city council in every city, the village board in every village and the town board in every town is hereby authorized and empowered to establish and enforce by ordinance reasonable standards and regulations for every trailer and trailer camp and every mobile home and mobile home park; to require an annual license fee to operate the same and to levy and collect special assessments to defray the costs of municipal and educational services furnished to such trailer and trailer camp, or mobile home and mobile home park, and limit the number of units, trailers or mobile homes that may be parked or kept in any one camp or park, and may also limit the number of licenses for trailer camps or parks in any common school district. The power conferred on cities, villages and towns by this section is in addition to all other grants and shall be deemed limited only by the express language of this section.

(c) In any town in which the town board adopts an ordinance regulating trailers under the provisions of this section and has also adopted and approved a county zoning ordinance under the provisions of s. 59.97, the provisions of the ordinance which is most restrictive shall apply with respect to the establishment and operation of any trailer camp in said town.

(d) Any license granted under the provisions of this section shall be subject to revocation or suspension for cause by the city council, village board or town board that issued such license upon complaint filed with the clerk of such city, village or town signed by any law enforcement officer, health officer or building inspector after a public hearing upon such complaint, provided that the holder of such license shall be given 10 days' notice in writing of such hearing, and he shall be entitled to appear and be heard as to why such license shall not be revoked. Any holder of a license which is revoked or suspended by the governing body of any city, village or town may within 20 days of the date of such revocation or suspension appeal therefrom to the circuit court of the county in which the trailer camp or mobile home park is located by filing a written notice of appeal with the city, village or town clerk, together with a bond executed to the city, village or town, in the sum of $500 with 2 sureties or a bonding company approved by the said clerk, conditioned for the faithful prosecution of such appeal and the payment of costs adjudged against him.

(3) LICENSE AND PERMIT FEES; COURT REVIEW. (a) The licensing authority shall have the power to exact from the licensee an annual license not less than $25 and not more than $100 for each 50 spaces or fraction thereof within each mobile home park within its limits, except that where the park lies in more than one municipality the amount of the fee shall be such fraction thereof as the number of spaces in the park in the municipality bears to the entire number of spaces in the park.

(b) The licensing authority may collect a fee of $10 for each transfer of a license.

(c) In addition to the license fee provided for in pars. (a) and (b), each licensee is hereby required to collect from each occupied mobile home occupying space or lots in his

mobile home park in the city, town or village a monthly parking permit fee equal to actual cost of services furnished by the school district, which cost shall be determined by the county or city superintendent of schools whichever may have jurisdiction and the cost of the municipal services which shall be determined by the governing body of the city, town or village and in both cases charged to the park every year payable monthly for maintenance, debt retirement, operation of schools and general administrative costs including, without limitation because of specific enumeration herein the following: fire protection, police protection, sewage disposal, garbage collection, and health services, in lieu of personal property tax. The amount of such parking permit fee that may be levied against each mobile home park shall be determined after a public hearing as hereinafter provided. The monthly parking permit fee shall be paid by the licensee on or before the tenth of the month following the month for which such parking permit fee is due; provided, that the licensee of a mobile home park or trailer camp shall not be required to collect for any space occupied by a mobile home accompanied by an automobile, if said mobile home and automobile bear license plates issued by any other than this state, for an accumulating period not to exceed 60 days in any 12 months or if the occupants of the mobile home are nonresident tourists or vacationists. Exemption certificates in duplicate shall be accepted by the treasurer of the licensing authority from qualified nonresident tourists or vacationists in lieu of permit fees. When one or more persons occupying a mobile home are employed in this state, there shall be no exemption from the monthly parking permit fee.

1. The licensee of a park shall be liable for the monthly parking permit fee for any mobile home occupying space therein as well as the owner and occupant thereof.

(d) Each city, town or village shall make preliminary determination of the amount of the per mobile home parking permit fee to be levied against a mobile home park, and shall give notice of hearing on said proposed parking permit fee to be held in the hall of the city, town or village where any interested person shall have an opportunity to be heard.

1. The clerk of said city, town or village shall post a notice of said hearing in at least 3 public places within the city, town or village, one posting of which shall be in a conspicuous place on each mobile home park property. At least one week shall intervene between the date of posting of such notice and the time of the meeting. The city, town or village may at such meeting, or at an adjourned meeting, confirm or change the proposed parking permit fee and upon final determination of the amount of the parking permit fee shall post a notice on each mobile home park property stating the amount of the parking permit fee as finally determined.

2. If the owner of any parcel of land affected by such determination feels himself aggrieved thereby, he may within 20 days after the date of posting such determination appeal to the circuit court of the county, notice thereof to be served upon the clerk of the city, village or town and by executing a bond to the city, town or village in the sum of $500 with 2 sureties or a bonding company to be approved by the clerk conditioned for the faithful prosecution of such appeal and the payment of all costs adjudged against him. The clerk, in case such an appeal is taken, shall make a brief statement of the proceedings had before the board, with its determination thereon and shall submit the same with all relevant papers to the clerk of the circuit court. Such appeal shall be tried and determined in the same manner as cases originally commenced in the court. An appeal brought under this section shall not be construed to prevent during the pendency of such appeal, the collection of any such monthly assessment currently or subsequently to become due.

3. This section shall not apply where a mobile home park is owned and operated by any county under the provisions of s. 59.07 (13) (b).

(e) If a mobile home is permitted by local ordinance to be located outside a licensed park, the monthly parking permit fee shall be paid by the owner of the mobile home, the occupant thereof or the owner of the land on which it stands, the same as and in the manner provided for licensees, provided that nothing contained in this subsection shall prohibit the regulation thereof by local ordinance.

(4) APPLICATION FOR LICENSE. Original application for mobile home park license shall be filed with the clerk of the licensing authority. Applications shall be in writing, signed by the applicant and shall contain the following:

(a) The name and address of the applicant.

(b) The location and legal description of the mobile home park.

(c) The complete plan of the park.

(5) PLANS AND SPECIFICATIONS TO BE FILED. Accompanying and to be filed with an original application for a mobile home park, shall be plans and specifications which shall be in compliance with all applicable city, town or village ordinances and provisions of

the state board of health. The clerk after approval of the application by the governing body and upon completion of the work according to the plans shall issue the license.

(6) RENEWAL OF LICENSE. Upon application by any licensee and after approval by the governing body of the city, town or village and upon payment of the annual license fee, the clerk of the city, town or village shall issue a certificate renewing the license for another year, unless sooner revoked. The application for renewal shall be in writing, signed by the applicant on forms furnished by the city, town or village.

(7) TRANSFER OF LICENSE; FEE. Upon application for a transfer of license the clerk of the city, town or village after approval of the application by the governing body shall issue a transfer upon payment of the required $10 fee.

History: 1953 c. 563; 1957 c. 154, 580.

Although the town may have power to regulate the use of a house trailer for private dwelling purposes on the owner's own land in the interest of public health, the town is without power retroactively to prohibit such use, where such trailer does not constitute a public nuisance. Des Jardin v. Greenfield, 262 W 43, 53 NW (2d) 784.

The provision in (3), that the mobile-home parking-permit fee shall be equal to the "actual cost" of school services and municipal services furnished by the municipality, does not prescribe a too-indefinite, ambiguous, and uncertain standard although not specifying any particular formula, and such provision should be interpreted to require that a figure be reasonably fixed after consideration of the elements of cost, and that the figure should not be arbitrary. Barnes v. West Allis, 275 W 31, 81 NW (2d) 75.

The monthly mobile-home parking-permit fee, which 66.058 (3) authorizes municipalities to exact from each occupied mobile home occupying space in a licensed mobile-home park, is an excise tax on the parking of occupied trailers and not a tax on them as property, so that it does not violate the rule of uniformity of taxation required by sec. 1, art. VIII, in the case of property taxes, although it is a flat fee levied on mobile homes which differ in value. Barnes v. West Allis, 275 W 31, 81 NW (2d) 75.

66.06 Public utilities. (1) DEFINITIONS. The definition of "public utility" in section 196.01 is applicable to sections 66.06 to 66.078. Whenever the phrase "resolution or ordinance" is used in sections 66.06 to 66.078, it means, as to villages and cities, ordinance only.

(2) LIMITATION. Nothing in sections 66.06 to 66.078 shall be construed as depriving the public service commission of any power conferred by sections 195.05, 195.07 and 196.01 to 197.10.

66.061 Franchises; service contracts. (1) FRANCHISES. (a) Any city or village may grant to any person or corporation the right to construct and operate therein a system of waterworks or to furnish light, heat or power subject to such reasonable rules and regulations as the proper municipal authorities by ordinance may from time to time prescribe.

(b) The board or council may submit the ordinance when passed and published to a referendum.

(c) No such ordinance shall be operative until 60 days after passage and publication unless sooner approved by a referendum. Within that time electors equal in number to 20 per cent of those voting at the last regular municipal election, may demand a referendum. The demand shall be in writing and filed with the clerk. Each signer shall state his occupation and residence and signatures shall be verified by the affidavit of an elector. The referendum shall be held at the next regular municipal election, or at a special election within 90 days of the filing of the demand, and the ordinance shall not be effective unless approved by a majority of the votes cast thereon. This paragraph shall not apply to extensions by a utility previously franchised by the village or city.

(d) Whenever any city or village at the time of its incorporation included within its corporate limits territory in which a public utility, prior to such incorporation, had been lawfully engaged in rendering public utility service, such public utility shall be deemed to possess a franchise to operate in such city or village to the same extent as though such franchise had been formally granted by ordinance duly adopted by the governing body of such city or village. This paragraph shall not apply to any public utility organized under any provision of ch. 66.

(2) SERVICE CONTRACTS. (a) Cities and villages may contract for furnishing light, heat or water to the municipality or to the inhabitants thereof for a period of not more than 10 years or for an indeterminate period if the prices shall be subject to adjustment at intervals of not greater than 5 years. The commission shall have jurisdiction relative to the rates and service to any city or village where light, heat or water is furnished to such city or village under any contract or arrangement, to the same extent that it has jurisdiction where such service is furnished directly to the public.

(b) When a village or city shall have contracted for water or lighting service to the municipality the cost shall be raised by tax levy and kept as a separate fund and used for no other purpose. In making payment to the owner of the utility a sum equal to the amount due the city from such owner for taxes or special asssessments may be deducted.

(c) This subsection shall apply to every city and village regardless of any charter limitations on the tax levy for water or light.

History: 1953 c. 374.

66.062 Joint use of tracks. (1) When two electric railway companies, in pursuance of franchises, are operating upon the same public way, the city may by ordinance, effective 90 days after passage and publication, require joint use of tracks and prohibit the operation of cars on either track in more than one direction. Such joint use shall include right to install and maintain necessary poles, wires, conduits, and other accessories.

(2) Either of such railway companies may acquire by condemnation a right to use the tracks of the other company for such purpose of providing one-way tracks, upon terms and conditions determined by agreement, or by the procedure provided in sections 32.08 to 32.14, inclusive, except that pending appeal to the circuit court the use may be had upon payment or deposit with the clerk of the court of the compensation awarded.

66.063 Municipal tracks. Cities may lay and maintain street railway tracks upon bridges and viaducts and by ordinance lease such tracks to any company authorized to operate a street railway in the city. But the city shall not grant an exclusive lease to any one company, nor such an exclusive franchise upon approaching ways as will prevent other companies from using such municipal tracks.

66.064 Joint operation. Any city or village served by any privately owned public utility, street railway or interurban railway rendering local service may contract with the owner thereof for the leasing, public operation, joint operation, extension and improvement by the municipality or with funds loaned by the municipality, for the stabilization by municipal guaranty of the return upon or for the purchase by instalments out of earnings or otherwise of that portion of said public utility, street or interurban railway which is operated within such municipality and any territory immediately adjacent and tributary thereto; or for the accomplishment of any object agreed upon between the parties relating to the use, operation, management, value, earnings, purchase, extension, improvement, sale, lease or control of such property. The provisions of section 66.07 relating to preliminary agreement, approval by the public service commission, and ratification by the electors, shall be applicable to the contracts authorized hereby and said public service commission shall, when any such contract is approved by it and consummated co-operate with the parties in respect to making valuations, appraisals, estimates and other determinations specified in such contract to be made by it.

66.065 Acquisition. (1) Any town, village or city may construct, acquire or lease any plant and equipment located within or without the municipality, and including interest in or lease of land, for furnishing water, light, heat, or power, to the municipality, or to its inhabitants or for street railway purposes; may acquire a controlling portion of the stock of any corporation owning private waterworks or lighting plant and equipment; and may purchase the equity of redemption in a mortgaged or bonded waterworks or lighting system, including the cases where the municipality shall in the franchise have reserved right to purchase. The character or duration of the franchise, permit or grant under which any public utility is operated, shall not affect the power to acquire the same hereunder. Two or more public utilities owned by the same person or corporation, or two or more public utilities subject to the same lien or charge, may be acquired as a single enterprise under any proceeding heretofore begun or hereafter commenced, and the board or council may at any time agree with the owner or owners of any public utility or utilities as to the agreed value thereof, and to contract to purchase or acquire the same hereunder at such value, upon such terms and conditions as may be mutually agreed upon between said board or council and said owner or owners.

(2) A resolution, specifying the method of payment and submitting the question to a referendum, shall be adopted by a majority of all the members of the board or council at a regular meeting, after publication at least one week previous in the official paper.

(3) The notice of the referendum shall include a general statement of the plant equipment or part thereof it is proposed to acquire or construct and of the manner of payment.

(4) Referendum elections under this section shall not be held oftener than once a year, except that a referendum so held for the acquisition, lease or construction of any of the types of property enumerated in subsection (1) shall not bar the holding of one referendum in the same year for the acquisition and operation of a bus transportation system by the municipality.

(5) Any city or village may by action of its governing body and with a referendum vote provide, acquire, own, operate or engage in a municipal bus transportation system where no existing bus, rail, trackless trolley or other local transportation system exists in such city or village. Any city or village in which there exists any local transportation

system by similar action and referendum vote may acquire, own, operate or engage in the operation of a municipal bus transportation system upon acquiring the local transportation system by voluntary agreement with the owners thereof, or pursuant to law, or upon securing a certificate from the public service commission pursuant to section 194.23 that public convenience and necessity requires the acquisition and operation of such bus transportation system by the municipality.

(6) Any street motor bus transportation company operating pursuant to the provisions of chapter 194 shall by the acceptance of authority under such chapter be deemed to have consented to a purchase of its property actually used and useful for the convenience of the public by the municipality in which the major part of such property is situated or operated for compensation under terms and conditions determined by the public service commission in the manner provided for the acquisition of utilities by municipalities under chapter 197; provided that if such motor bus transportation facilities are operated as auxiliary to street railway or trackless trolley facilities operated pursuant to franchise granted under the provisions of chapter 193, such motor bus facilities shall be acquired only by the acquisition, pursuant to chapter 193, of the transportation system to which they are auxiliary.

(7) Any city or village providing or acquiring a motor bus transportation system under the provisions of this section may finance such construction or purchase in any manner now authorized in respect of the construction or purchase of a public utility.

66.066 Method of payment. (1) Any town, village, city or power district may, by action of its governing body, provide for purchasing, acquiring, leasing, constructing, extending, adding to, improving, conducting, controlling, operating or managing a public utility from the general fund, or from the proceeds of municipal bonds, mortgage bonds or mortgage certificates. The term municipality as used in this section shall include power districts and municipal water districts. Any indebtedness created pursuant to subs. (2) to (4) shall not be considered an indebtedness of such municipality, and shall not be included in arriving at the constitutional debt limitation.

(1a) Nothing herein shall be construed to limit the authority of any municipality to acquire, own, operate and finance in the manner provided in this section, a source of water supply and necessary transmission facilities (including all real and personal property) beyond its corporate limits, and a source of water supply 30 miles beyond such limits shall be deemed to be within such authority.

(2) Where payment is provided by mortgage bonds, the procedure for payment shall be in the manner following:

(a) The board or council shall order the issuance and sale of bonds bearing interest at a rate not exceeding 6 per centum per annum, payable semiannually, executed by the chief executive and the clerk and payable at such times not exceeding 40 years from the date thereof, and at such places, as the board or council of such municipality shall determine, which bonds shall be payable only out of the said special redemption fund. Each such bond shall state plainly upon its face that it is payable only from the said special redemption fund, naming the ordinance creating it and that it does not constitute an indebtedness of such municipality. The said bonds may be issued either as registered bonds or as coupon bonds payable to bearer. Coupon and bearer bonds may be registered as to principal in the holder's name on the books of such municipality, such registration being noted on the bond by the clerk or other designated officer, after which no transfer shall be valid unless made on the books of such municipality by the registered holder and similarly noted on the bond. Any bond so registered as to principal may be discharged from such registration by being transferred to bearer after which it shall be transferable by delivery but may be again registered as to principal as before. The registration of the bonds as to the principal shall not restrain the negotiability of the coupons by delivery merely, but the coupons may be surrendered and the interest made payable only to the registered holder of the bonds. If the coupons be surrendered, the surrender and cancellation thereof shall be noted on the bond and thereafter interest on the bond shall be payable to the registered holder or order in cash or at his option by check or draft payable at the place or one of the places where the coupons were payable. Such bonds shall be sold in such manner and upon such terms as the board or council shall deem for the best interests of said municipality; provided, however, that if such bonds are issued bearing interest at the rate of 6 per centum per annum, they shall not be sold for less than par; if issued bearing a lower rate than 6 per centum per annum, they may be sold at less than par, provided always that the selling price is such that the interest cost to the municipality for the funds representing the proceeds of said bonds computed to maturity according to standard tables of bond values shall not exceed 6 per centum per annum. All bonds shall mature serially commencing not later than 3 years after the date of issue in such amounts that the requirement each year to pay both principal and interest will be as

nearly equal as practicable. All such bonds may contain a provision authorizing redemption thereof, in whole or in part, at stipulated prices, at the option of the municipality on any interest payment date after 3 years from the date of the bonds, and shall provide the method of selecting the bonds to be redeemed. The board or council may provide in any contract for purchasing, acquiring, leasing, constructing, extending, adding to, improving, conducting, controlling, operating or managing a public utility, that payment thereof shall be made in such bonds at not less than 95 per cent of the par value thereof.

(b) All moneys received from any bonds issued pursuant hereto shall be applied solely for purchasing, acquiring, leasing, constructing, extending, adding to, improving, conducting, controlling, operating or managing a public utility, and in the payment of the cost of any subsequent necessary additions, improvements and extensions, and there shall be and there is hereby granted and created a statutory mortgage lien upon the public utility to the holders of the said bonds and to the holders of the coupons of said bonds. The public utility shall remain subject to such statutory mortgage lien until the payment in full of the principal and interest of the bonds. Any holder of the said bonds or of any coupons attached thereto may either at law or in equity protect and enforce the statutory mortgage lien hereby conferred, and compel performance of all duties required by this section of the municipality. If there be any default in the payment of the principal or interest of any of the said bonds, any court having jurisdiction of the action may appoint a receiver to administer the said public utility on behalf of the said municipality, and the said bondholders, with power to charge and collect rates lawfully established sufficient to provide for the payment of the operating expenses and also to pay any bonds or obligations outstanding against said utility, and to apply the income and revenues thereof in conformity with this statute and the said ordinance, or the said court may declare the whole amount of said bonds due and payable and may order and direct the sale of the said public utility. Under any sale so ordered, the purchaser shall be vested with an indeterminate permit to maintain and operate the said public utility. Any municipality may provide for additions, extensions and improvements to a public utility owned by said municipality by additional issue of bonds in the manner herein provided; but such additional issue or issues of bonds shall be subordinate to all prior issues of bonds which may have been made hereunder, provided, a municipality may in the ordinance authorizing bonds hereunder permit the issue of additional bonds on a parity therewith. Any municipality may issue new bonds in the manner herein provided and secured in the same manner, to provide funds for the payment of the principal and interest of any bonds then outstanding.

(c) As accurately as possible in advance, said board or council shall by ordinance fix and determine:

1. The proportion of the revenues of such public utility which shall be necessary for the reasonable and proper operation and maintenance thereof;

2. The proportion of the said revenues which shall be set aside as a proper and adequate depreciation fund; and

3. The proportion of the said revenues which shall be set aside and applied to the payment of the principal and interest of the bonds herein authorized and shall set the same aside in separate funds.

At any time after one year's operation, the council or board may recompute the proportion of the revenues which shall be assignable as provided above based upon the experience of operation or upon the basis of further financing.

(d) The proportion set aside to the depreciation fund shall be available and shall be used, whenever necessary, to restore any deficiency in the special redemption fund described below for the payment of the principal and interest due on the bonds herein authorized and for the creation and maintenance of any reserves established by the bond ordinance or ordinances to secure such payments. At any time when the special redemption fund is sufficient for said purposes, moneys in the depreciation fund may be expended in making good depreciation either in said public utility or in new constructions, extensions or additions. Any accumulations of such depreciation fund may be invested, and if invested, the income from the investment shall be carried in the depreciation fund.

(e) The proportion which shall be set aside for the payment of the principal and interest of the bonds herein authorized shall from month to month as the same shall accrue and be received, be set apart and paid into a special fund in the treasury of the said municipality to be identified as "the .... special redemption fund."

(f) If any surplus shall be accumulated in any of the above funds, it shall be disposed of as provided in section 66.069 (1) (c).

(g) The reasonable cost and value of any service rendered to such municipality by such public utility shall be charged against the said municipality and shall be by it paid for in monthly instalments.

(h) The rates for all services rendered by such public utility to the municipality or to other consumers, shall be reasonable and just, taking into account and consideration the value of the said public utility, the cost of maintaining and operating the same, the proper and necessary allowance for depreciation thereof, and a sufficient and adequate return upon the capital invested.

(i) Said board or council shall have full power to adopt all ordinances necessary to carry into effect the provisions of this subsection. Any ordinance providing for the issuance of bonds may contain such provisions or covenants, without limiting the generality of the power to adopt such ordinance, as is deemed necessary or desirable for the security of bondholders or the marketability of the bonds, including but not limited to provisions as to the sufficiency of the rates or charges to be made for service, maintenance and operation, improvements or additions to and sale or alienation of the public utility, insurance against loss, employment of consulting engineers and accountants, records and accounts, operating and construction budgets, establishment of reserve funds, issuance of additional bonds, and deposit of the proceeds of the sale of the bonds or revenues of the public utility in trust, including the appointment of depositories or trustees. Any ordinance authorizing the issuance of bonds or other obligations payable from revenues of a public utility shall constitute a contract with the holder of any bonds or other obligations issued pursuant to such ordinance.

(j) Proceedings for purchasing, acquiring, leasing, constructing, extending, adding to, improving, conducting, controlling, operating, or managing a public utility by any municipality heretofore begun under the provisions of law other than subsection (2), may be proceeded with either under the provisions of such law, if still in force, or under the provisions of said subsection (2) as the board or council may elect. A municipality proceeding under chapter 197 to acquire the property of a public utility may pay for the same by the method provided for in this section.

(k) The ordinance required by subsection (2) (c) may set apart bonds hereunder equal to the amount of any secured debt or charge subject to which a public utility may be purchased, acquired, leased, constructed, extended, added to, or improved in any proceedings heretofore begun or hereafter commenced, and shall set aside for interest and sinking fund from the income and revenues of the public utility, a sum sufficient to comply with the requirements of the instrument creating the lien, or if such instrument does not make any provision therefor, said ordinance shall fix and determine the amount which shall be set aside into a secured debt fund from month to month for interest on the secured debt, and a fixed amount or proportion not exceeding a stated sum, which shall be not less than one per cent of the principal, to be set aside into said fund to pay the principal of the debt. Any surplus after satisfying the debt may be transferred to the special redemption fund. Public utility bonds set aside for such debt may, from time to time be issued to an amount sufficient with the amount then in such sinking fund, to pay and retire the said debt or any portion thereof; such bonds may be so issued at not less than 95 per cent of the par value in exchange for, or satisfaction of, the secured debt, or may be sold in the manner herein provided, and the proceeds applied in payment of the same at maturity or before maturity by agreement with the holder. The board or council and the owners of any public utility acquired, purchased, leased, constructed, extended, added to, or improved, hereunder may, upon such terms and conditions as are satisfactory, contract that public utility bonds to provide for such secured debt, or for the whole purchase price shall be deposited with a trustee or depository and released from such deposit from time to time on such terms and conditions as are necessary to secure the payment of the debt.

(l) Any municipality which has heretofore or may hereafter purchase, acquire, lease, construct, extend, add to or improve, conduct, control, operate, or manage a public utility subject to a mortgage or deed of trust by the vendor or his or its predecessor in title to secure the payment of outstanding and unpaid bonds made by the vendor or his or its predecessor in title, may readjust, renew, consolidate or extend the debt evidenced by such outstanding bonds and continue the lien thereof of the mortgage, securing the same by issuing bonds to refund the said outstanding mortgage bonds at or prior to their maturity, which bonds shall be payable only out of a special redemption fund to be created and set aside by ordinance as nearly as may be in the manner prescribed by subsection (2), and which refunding bonds shall be secured by a statutory mortgage lien upon the public utility, and such municipality is authorized to adopt all ordinances and take all proceedings, following as nearly as may be the procedure prescribed by subsection (2), the lien thereof shall have the same priority on the public utility as the mortgage securing the outstanding bonds, unless it be otherwise expressly provided in the proceedings of the common council or other governing authority to authorize the same.

(3) When payment is provided by mortgage certificate it shall be in the manner following:

(a) The board or council shall order the issue and sale of mortgage certificates which shall recite that they are secured by trust deed or mortgage upon such equipment and that no municipal liability is created thereby.

(b) Such mortgage certificates shall bear interest not to exceed 6 per cent per annum, payable semiannually, shall not be sold for less than 95 per cent of the par value, and shall be made payable at the option of such municipality in not less than 3 years and in not more than 20 years from the date thereof.

(c) To secure the payment of principal and interest of such mortgage certificates, the chief executive and clerk shall execute to the purchaser thereof or to a trustee selected by resolution or ordinance, a trust deed or mortgage upon such public utility to the holders of said bonds and to the holders of the coupons of said bonds.

(d) The trust deed or mortgage shall among other things provide:

1. That the lien upon the property therein described and upon the income, shall be the only security, and that no municipal liability is created.

2. That the income from operation shall be applied, first to the necessary maintenance and operation, second to payment of the principal and interest of the certificates herein authorized, and third, to provide for proper and adequate depreciation. All certificates shall mature in substantially equal annual instalments, and the first instalment of principal shall fall due and be payable not later than 3 years after the date of issue. All such certificates shall contain a provision requiring redemption thereof, in whole or in part, at stipulated prices, at the option of the municipality on any interest payment date after 3 years from the date of the certificates.

3. That if any interest shall remain due and unpaid for 12 months, or if any part of the principal shall not be paid when due, the trust deed or mortgage may be foreclosed.

4. That upon default in payment of principal or interest, the holder of such trust deed or mortgage may by notice in writing served after such default declare the whole amount due and payable 6 months after such service and that it shall be so due and payable.

(e) Refunding mortgage certificates may be issued in the same manner, upon a two-thirds vote of the board or council. The rate of interest and time of payment shall be as fixed by subsection (3) (b).

(4) Any city, village, town or municipal power district which may own or operate, or hereafter purchase, acquire, lease, construct, extend, add to, improve, conduct, control, operate or manage any public utility may also, by action of its governing body, in lieu of the issuance of bonds or certificates or the levy of taxes and in addition to any other lawful methods or means of providing for the payment of indebtedness, have the power by and through its governing body to provide for or to secure the payment of the cost of purchasing, acquiring, leasing, constructing, extending, adding to, improving, conducting, controlling, operating, or managing a public utility by pledging, assigning or otherwise hypothecating, the net earnings or profits derived, or to be derived, from the operation of such public utility. To that end, it may enter into such contracts and may mortgage its plant and issue such evidences of indebtedness as may be proper to carry out the provisions of this subsection.

History: 1951 c. 560; 1953 c. 209, 273, 441; 1955 c. 428; 1957 c. 363, 420.

An exercise by a city council of its authority to construct a pipe line outside the city limits cannot be controlled by a referendum held under 10.43. Denning v. Green Bay, 271 W 230, 72 NW (2d) 730.

66.067 Public works projects. For financing purposes, garbage incinerators, toll bridges, swimming pools, tennis courts, parks, playgrounds, golf links, bathing beaches, bathhouses, street lighting, city halls, courthouses, jails, schools, hospitals, and any and all other necessary public works projects undertaken by any town, village, city, county or other municipality are public utilities within the meaning of s. 66.066. In financing under that section, rentals and fees shall be considered as revenue. Any indebtedness created pursuant to this section shall not be included in arriving at the constitutional debt limitation.

History: 1953 c. 540; 1955 c. 10.

The provision that a municipality "may finance" a hospital utility in the manner provided in 66.066 means that there is to be compliance with the latter section only with respect to the manner in which the funds for the construction are to be raised. A city may finance the construction of an addition to a municipally owned hospital by the issuance of hospital revenue bonds, although the hospital is operated by a hospital association under a lease, since the city, in operating a hospital, acts in a proprietary and not in a governmental capacity, and the city can contract to have another do that which the city can do in its proprietary capacity. Meier v. Madison, 257 W 174, 42 NW (2d) 914.

66.068 Management. (1) In cities owning a public utility, the council shall and in towns and villages owning a public utility the board may provide for a nonpartisan management thereof, and create for each or all such utilities, a board of 3 or 5 or 7 commissioners, to take entire charge and management of such utility, to appoint a manager and

fix his compensation, and to supervise the operation of the utility under the general control and supervision of the board or council.

(2) The commissioners shall be elected by the board or council for a term, beginning on the first day of October, of as many years as there are commissioners, except that the terms of the commissioners first elected shall expire successively one each year on each succeeding first day of October.

(3) The commissioners shall choose from among their number a president and a secretary. They may command the services of the city engineer and may employ and fix the compensation of such subordinates as shall be necessary. They may make rules for their own proceedings and for the government of their department. They shall keep books of account, in the manner and form prescribed by the public service commission, which shall be open to the public.

(4) It may be provided, notwithstanding the provisions of s. 62.09, that departmental expenditures be audited by such commission, and if approved by the president and secretary of the commission, be paid by the city or village clerk and treasurer in the manner provided by s. 66.042; that the utility receipts be paid to a bonded cashier or cashiers appointed by the commission, to be turned over to the city treasurer at least once a month; and that the commission have such general powers in the construction, extension, improvement and operation of the utility as shall be designated. Where in any municipality water mains have been installed or extended and the cost thereof has been in some instances assessed against the abutting owners and in other instances paid by the municipality or any utility therein, it may be provided by the governing body of such municipality that all persons who paid any such assessment against any lot or parcel of land may be reimbursed the amount of such assessment regardless of when such assessment was made or paid. Such reimbursement may be made from such funds or earnings of said municipal utility or from such funds of the municipality as the governing body may determine.

(5) Actual construction work shall be under the immediate supervision of the board of public works or corresponding authority.

(6) Two or more public utilities acquired as a single enterprise hereunder may be operated as a single enterprise.

(7) In cities of the second, third or fourth class the council may provide for the operation of a public utility or utilities by the board of public works or by another officer or officers, in lieu of the commission above provided for.

History: 1953 c. 462; 1957 c. 699.

66.069 Charges; outside services. (1) CHARGES. (a) The council or board of any town, village or city operating a public utility may, by ordinance, fix the initial rates and provide for this collection monthly, quarterly or semiannually in advance or otherwise. The rates shall be uniform for like service in all parts of the municipality and shall include the cost of fluorinating the water. The rates may also include standby charges to property not connected but for which such facilities have been made available. The charges shall be collected by the treasurer.

(b) On October 15 in each year notice shall be given to the owner or occupant of all lots or parcels of real estate to which water has been furnished prior to October 1 by a water utility operated by any town, city or village and payment for which is owing and in arrears at the time of giving such notice. The department in charge of the utility shall furnish the treasurer with a list of all such lots or parcels of real estate, and the notice shall be given by the treasurer, unless the governing body of the city, village or town shall authorize such notice to be given directly by the department. Such notice shall be in writing and shall state the amount of such arrears, including any penalty assessed pursuant to the rules of such utility; that unless the same is paid by November 1 thereafter a penalty of 10 per cent of the amount of such arrears will be added thereto; and that unless such arrears, with any such added penalty, shall be paid by November 15 thereafter, the same will be levied as a tax against the lot or parcel of real estate to which water was furnished and for which payment is delinquent as above specified. Such notice may be served by delivery to either such owner or occupant personally, or by letter addressed to such owner or occupant at the post-office address of such lot or parcel of real estate. On November 16 the officer or department issuing the notice shall certify and file with the clerk a list of all lots or parcels of real estate, giving the legal description thereof, to the owners or occupants of which notice of arrears in payment were given as above specified and which arrears still remain unpaid, and stating the amount of such arrears together with the added penalty thereon as herein provided. Each such delinquent amount, including such penalty, shall thereupon become a lien upon the lot or parcel of real estate to which the water was furnished and payment for which is delinquent, and the clerk shall insert the same as a tax against such lot or parcel of real estate. All proceedings in relation to the collection of general property taxes and to the return and sale

of property for delinquent taxes shall apply to said tax if the same is not paid within the time required by law for payment of taxes upon real estate.

(c) The income of a public utility owned by a municipality, shall first be used to meet operation, maintenance, depreciation, interest, and sinking fund requirements, local and school tax equivalents, additions and improvements, and other necessary disbursements or indebtedness. Income in excess of these requirements may be used to purchase and hold interest bearing bonds, issued for the acquisition of the utility, or bonds issued by the United States or any municipal corporation of this state, or insurance upon the life of an officer or manager of such utility, or may be paid into the general fund.

(d) Any city, town or village may use funds derived from its water plant above such as are necessary to meet operation, maintenance, depreciation, interest and sinking funds, new construction or equipment or other indebtedness, for sewerage construction work other than such as is chargeable against abutting property; or they may turn such funds into the general fund to be used for general city purposes, or may place such funds in a special fund to be used for special municipal purposes.

(e) Any city, village or town owning a public utility shall be entitled to the same rate of return as permitted for privately owned utilities.

(2) OUTSIDE SERVICE. (a) Any town, town sanitary district, village or city owning water, light or power plant or equipment may serve persons or places outside its corporate limits, including adjoining municipalities not owning or operating a similar utility, and may interconnect with another municipality, whether contiguous or not, and for such purposes may use equipment owned by such other municipality.

(b) So much of such plant or equipment, except water plant or equipment or interconnection property in any municipality so interconnected, as shall be situated in another municipality shall be taxable in such other municipality pursuant to the provisions of sections 76.01 to 76.29.

(c) Each village or city shall by ordinance fix the limits of such service in unincorporated areas.

History: 1951 c. 560; 1953 c. 500; 1955 c. 427.
See note to 62.11, citing Froncek v. Milwaukee, 269 W 276, 69 NW (2d) 242.

66.07 Sale or lease. Any town, village or city may sell or lease any complete public utility plant owned by it, in manner following:

(1) A preliminary agreement with the prospective purchaser or lessee shall be authorized by a resolution or ordinance containing a summary of the terms proposed, of the disposition to be made of the proceeds, and of the provisions to be made for the protection of holders of obligations against such plant or against the municipality on account thereof. Such resolution or ordinance shall be published in the official paper at least one week before adoption, or if there is no such paper, in some paper published in the municipality, if any, otherwise it shall be posted in 4 of the most public places in the municipality at least 10 days before adoption. It may be adopted only at a regular meeting and by a majority of all the members of the board or council.

(2) The preliminary agreement shall fix the price of sale or lease, and provide that if the amount fixed by the public service commission shall be larger, the price shall be that fixed by such commission.

(3) The municipality shall submit the preliminary agreement when executed to the public service commission, which shall determine whether the interests of the municipality and of the residents thereof will be best served by the sale or lease, and if it so determine, shall fix the price and other terms.

(4) The proposal shall then be submitted to the electors of the municipality. The notice of the referendum shall include a description of the plant, and a summary of the preliminary agreement, and of the price and terms as fixed by the public service commission. If a majority voting on the question shall vote for the sale or lease, the board or council shall be authorized to consummate the same, upon the terms and at a price not less than fixed by the public service commission, with the proposed purchaser or lessee or any other with whom better terms approved by the public service commission can be made.

(5) Unless the sale or lease is consummated within one year of the referendum, or the time is extended by the public service commission, the proceedings shall be void.

66.071 In first class cities. All provisions of this section apply to all first class cities.

(1) WATERWORKS. (a) Water rates shall be collected in the manner and by any one whom the council may from time to time determine, and shall be accounted for and paid to such other officials in such manner and at such times as the council may from time to time prescribe. Such persons shall give a bond to cover all the duties in such an amount

as may be prescribed by the council. Final accounting shall be made to comptroller and final disposition of money shall be made to city treasurer.

(b) The words "commissioner of public works" in subsection (1) shall be construed to mean and have reference to any board of public works, or commissioner of public works, or other officer of any city having control of the public works therein, and all acts authorized to be done by such commissioner except for the enforcement of regulations approved by the council shall require the approval of the council before they shall have any force or effect.

(c) When the city owns its waterworks, the commissioner of public works shall have power, from time to time, to make and enforce by-laws, rules and regulations in relation to the said waterworks, and, before the actual introduction of water, he shall make by-laws, rules and regulations, fixing uniform water rates to be paid for the use of water furnished by the said waterworks, and fixing the manner of distributing and supplying water for use or consumption, and for withholding or turning off the same for cause, and he shall have power, from time to time, to alter, modify or repeal such by-laws, rules and regulations.

(d) Water rates shall be due and payable upon such date or dates as the common council may provide by regulation. To all water rates remaining unpaid 20 days thereafter, there shall be added a penalty of 5 per cent of the amount of such rates, and if such rates shall remain unpaid for 10 days thereafter, water may be turned off the premises, subject to the payment of such delinquent rates, and in such cases where the supply of water is turned off as above provided, water shall not be again turned on to said premises until all delinquent rates and penalties, and a sum not exceeding $2 as provided for by regulation for turning the water off and on, shall have been paid. The same penalty and charge may be made when payment is made to a collector sent to the premises. On or before each day when such rates become due and payable as aforesaid, a written or printed notice or bill shall be mailed or personally delivered to the occupant or, upon written request, to the owner wherever he shall state, of all premises subject to the payment of water rates, stating the amount due, the time when and the place where such rates can be paid, the penalty for neglect of payment.

(e) All water rates for water furnished to any building or premises, and the cost of repairing meters, service pipes, stops or stop boxes, shall be a lien on the lot, part of lot or parcel of land on which such building or premises shall be situated. If any water rates or bills for the repairing of meters, service pipes, stops or stop boxes remain unpaid on the first day of October, in any year, the same shall be certified to the city comptroller of such city on or before the first day of November next following, and shall be by him placed upon the tax roll and collected in the same manner as other taxes on real estate are collected in said city. The charge for water supplied by the city in all premises where meters are attached and connected, shall be at rates fixed by the commissioner of public works and for the quantity indicated by the meter. If in any case, the commissioner of public works shall determine that the quantity indicated by the meter is materially incorrect or if a meter has been off temporarily on account of repairs, the commissioner of public works shall determine in the best manner in his power the quantity used, and such determination shall be conclusive. No water rate or rates duly assessed against any property shall be thereafter remitted or changed except by the council of such city.

(f) The commissioner of public works of any such city may issue a permit to the county in which it is located, to any national home for disabled soldiers, or to any other applicant to obtain water from the waterworks in the said city for use outside of the limits of such city; and for that purpose to connect any pipe that shall be laid outside of the city limits with water pipe in such city. No such permit shall be issued until the applicant shall first file with the commissioner of public works a bond in such sum and with such surety as the said commissioner shall approve, conditioned that the said applicant will obey the rules and regulations that may from time to time be prescribed by the commissioner of public works for the use of such water; that he will pay all charges fixed by said commissioner for the use of such water as measured by a meter to be approved by said commissioner, which charges shall include the proportionate cost of fluorinating the water and, except as to water furnished directly to county or other municipal properties, shall not be less than one-quarter more than those charged to the inhabitants of the city for like use of water; that he will pay to any such city a water pipe assessment if the property to be supplied with water has frontage on any thoroughfare forming the city boundary line in which a water main has or shall be laid, and at the rate prescribed by the commissioner of public works; if the property to be supplied does not front on a city boundary but is distant therefrom, that a main pipe of the same size, class and standard as terminates at the city boundary shall be extended, and the entire cost shall be paid by the applicant for the extension; that such water main shall

be laid according to city specifications and under city inspection; that such water main and appliances shall become the absolute property of such city, without any compensation therefor, whenever the property supplied with water by said extension or any part thereof shall be annexed to or in any manner become a part of such city; and that he will pay to any such city all damages whatever that it may sustain, arising in any way out of the manner in which such connection is made or water supply is used. In case of granting a permit to any county or to any national home for disabled soldiers, the commissioner of public works may waive the giving of such a bond. Every such permit shall be issued upon the understanding that such city shall in no event ever be liable for any damage in case of failure to supply water by reason of any condition beyond its control.

(g) The commissioner of public works shall prescribe and regulate the kind of water meters to be used in such city and the manner of attaching and connecting the same, and may in like manner make such other rules for the use and control of water meters attached and connected as herein provided as shall be necessary to secure reliable and just measurement of the quantity of water used; and may alter and amend such rules from time to time as shall be necessary for the purposes named. If the owner or occupant of any premises, where the attaching and connection of a water meter may lawfully be required, shall neglect or fail to attach and connect such water meter, as is required according to the rules established by the commissioner of public works, for 30 days after the expiration of the time within which such owner or occupant shall have been notified by said commissioner of public works to attach and connect such meter, the commissioner of public works may cause the water supply by the city to be cut off from the premises, and it shall not be restored except upon such terms and conditions as the commissioner of public works shall prescribe.

(h) The commissioner of public works may prescribe and regulate the size of connections made with the distribution mains for supplying automatic sprinkler systems and fix an annual charge for such service.

(i) The commissioner of public works may also make rules and regulations for the proper ventilating and trapping of all drains, soil pipes and fixtures hereafter constructed to connect with or be used in connection with the sewerage or water supply of the city. The council may provide by ordinance for the enforcement of such rules and regulations, and may prescribe proper penalties and punishment for disobedience of the same. The commissioner of public works may also make rules to regulate the use of vent, soil, drain, sewer or water pipes in all buildings in said city, which hereafter shall be proposed to be connected with the city water supply or sewerage, specifying the dimensions, strength and material of which the same shall be made, and may prohibit the introduction into any building of any style or water fixture, tap or connection, the use of which shall have been determined to be dangerous to health or for any reason unfit to be used, and the commissioner of public works shall require a rigid inspection by a skilled and competent inspector under his direction of all plumbing and draining work and water and sewer connections, hereafter done or made in any building in the city, and unless the same are done or made according to rules of the commissioner of public works, and approved by him, no connection of the premises with the city sewerage or water supply shall be allowed.

(j) The said commissioner shall make an annual report to the council of his doings under this section and the state of the water fund and the general condition of said waterworks, and such report after being submitted to the council shall be filed in the office of the comptroller.

(2) UTILITY DIRECTORS. (a) The term "electric plant" as used in this section shall mean a plant for the production, transmission, delivery and furnishing of electric light, heat or power directly to the public.

(b) If the city shall have determined to acquire a street railway and electric plant or either of them, or any other public utility in accordance with the provisions of this section, the mayor of such city, prior to the city taking possession of such property shall appoint, subject to the confirmation of the council, 7 persons of recognized business experience and standing to act as the board of directors for such utility. Two of such persons shall be appointed for a term of 2 years, 2 for a term of 4 years, 2 for a term of 6 years, and one for a term of 8 years. Thereafter successors shall be appointed in like manner for terms of 10 years each. Any such director may be removed by the mayor with the approval of the council for misconduct in office or for unreasonable absence from meetings of the directors.

(c) The directors so appointed shall have power: To employ a manager experienced in the management of street railways and electric plants or other like public utilities and fix his compensation and the other terms and conditions of employment and to remove him at pleasure, subject to the terms and conditions of his employment. To advise and consult with the manager and other employes as to any matter pertaining to maintenance, opera-

tion or extension of such utility. To perform such other duties as ordinarily devolve upon a board of directors of a corporation organized under ch. 180 not inconsistent with this section and the laws governing cities of the first class. No money shall be raised or authorized to be raised by said board of directors other than from revenues derived from the operation of the utility, except by action of the council.

(d) The manager appointed by the board of directors shall have complete management and control of the utility, subject to the powers herein conferred upon the board of directors and the council and shall have power to appoint assistants and all other employes which he deems necessary and fix their compensation and other terms and conditions of employment, except that the board of directors may prescribe rules for determining the fitness of persons for positions and employment.

(e) The council shall fix the compensation, if any, of members of the board of directors and shall have the powers herein conferred upon it and such other powers as it now possesses with reference to street railways, electric plants and other public utilities.

History: 1953 c. 450; 1955 c. 661.

66.072 Utility districts. (1) Towns, villages and cities of the third and fourth class may establish utility districts and thereafter the expense of highways (not including bridges), sewers, sidewalks, street lighting, and water for fire protection, or either, as board or council shall direct, not chargeable to private property, shall be paid out of the fund of the proper districts.

(2) The fund of each district shall be provided by taxation of the property in such district, upon an annual estimate by the department in charge of public works in cities and villages, and by the superintendent of highways in towns, filed by October first. Separate account shall be kept of each district fund.

(3) In towns a majority vote and in villages and cities a three-fourths vote of all the members of the board or council shall be required to thus establish utility districts and by a like vote districts may be vacated, altered, or consolidated.

(4) Before the vote is effective to establish, vacate, alter or consolidate, a hearing shall be held as provided in s. 66.60 (7). In towns the notice may be given by posting in 3 public places in said town, one of which shall be in the proposed district, at least 2 weeks prior to such hearing.

History: 1957 c. 132.

See note to 66.03, citing Bayside v. Milwaukee, 267 W 448, 66 NW (2d) 129.

66.073 Docks and wharves. Any city council may by ordinance establish dock lines, regulate the construction of piers and wharves extending into any lake or navigable waters, prescribe and control the prices to be charged for pierage or wharfage thereon, prescribe and regulate the prices to be charged for dockage and storage in the city, and lease the wharfing privileges of the rivers and navigable waters at the ends of streets, giving preference to owners of adjoining land. No buildings shall be erected on the ends of streets, and a free passage over the same for all persons, with their baggage, shall be reserved.

66.074 Ice plants, fuel depots and landing fields. (1) Any city may enter into any contract which will enable it to purchase, construct, lease or acquire any equipment necessary to secure, manufacture, or sell ice, and to supply ice to itself, its inhabitants and persons doing business therein, or the county in which it is located, and may operate the same.

(2) Any city may by a vote of three-fourths of all the members of the council establish and operate equipment for the purchase, sale and supply of fuel to its citizens, under regulation of the council.

(3) Any city may purchase or lease lands for the use of the public as an aerial landing field, and may construct thereon hangars, shops, and other equipment and maintain such landing field; and may establish and collect uniform fees for use of such field. Neither the city, nor any board, commission or officer thereof, maintaining and operating any aerial landing field, as provided in this subsection, and collecting fees for the use of the same, shall be held liable in damages for injuries done to any person, not an employe of such city, by reason of the maintenance or operation of such landing field.

66.075 Slaughterhouses. (1) Authority is hereby given to every county and to every city of more than 5,000 inhabitants to construct and maintain public slaughterhouses upon such conditions and under such regulations as may be imposed by the state department of agriculture.

(2) The county board in each county and the common council in each city shall authorize the construction of such county or municipal slaughterhouse, shall make the necessary appropriation for the purchase of land and the construction and maintenance of such slaughterhouse and shall take proper action to secure the building, establishment and

maintenance of such county or municipal slaughterhouse. Provided, that in cities such municipal slaughterhouse shall be maintained and operated by the health department in such city.

(3) All cattle, sheep, swine and goats slaughtered in such slaughterhouse shall be examined by the proper state authorities, and after examination and inspection shall be approved or condemned in accordance with the state laws and the municipal regulations governing the examination and inspection of similar private establishments.

(4) Any person, firm or corporation who shall make use of a county or municipal slaughterhouse, and in such use shall violate any of the terms of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than $500 or by imprisonment of not more than one year, or by both such fine and imprisonment in the discretion of the court.

(5) The provisions of this section shall apply only to such counties and to such cities as shall have adopted the same at any general or municipal election at which the question of the establishment of such county or municipal slaughterhouse shall have been submitted to the voters of such county or such city. Such question shall, upon the written petition of electors of such county or such city equal in number to at least 10 per cent of all the votes cast in such county or such city for governor at the last preceding general election, be submitted to the electors of such county or such city at the next ensuing election, and if a majority of votes cast shall be in favor of the establishment of such slaughterhouse, the provisions of this section shall apply to such county or to such city.

66.076 Sewerage system, service charge. (1) In addition to all other methods provided by law any town, village or city may construct, acquire or lease, extend or improve any plant and equipment within or without its corporate limits for the collection, treatment and disposal of sewage, including the lateral, main and intercepting sewers necessary in connection therewith, or may arrange for such service to be furnished by a metropolitan sewerage district or joint sewerage system, and provide payment for the same or any part thereof from the general fund, from taxation, special assessments, sewerage service charges, or from the proceeds of either municipal bonds, mortgage bonds, mortgage certificates or from any combination of these enumerated methods of financing.

(2) Where payment in whole or in part is to be made by the issue and sale of mortgage bonds or mortgage certificates, such payments shall be made as is provided in section 66.066, the provisions of which section as the same has been and from time to time may be amended or recreated are made a part of this section except as otherwise inconsistent herewith. The term "public utility" as used in said section as the same has been and from time to time may be amended or recreated shall for this purpose include the sewerage system, accessories, equipment and other property, including land. Such mortgage bonds or mortgage certificates shall not constitute a general indebtedness of the municipality but shall be secured only by the sewerage system and revenue thereof, and the franchise herein provided for.

(3) In the event of a sale of the mortgaged premises on a judgment of foreclosure and sale, the price paid for the same shall not exceed the amount of the judgment and the costs of sale to and including the recording of the sheriff's deed. The purchaser on the foreclosure sale may operate and maintain said sewerage system and collect sewerage service charges, and for that purpose shall be deemed to have a franchise from the municipality. The term "purchaser" shall include his successors or assigns. The rates to be charged, in addition to the contributions, if any, which the municipality has obligated itself to make toward the capital or operating costs of the plant, shall be sufficient to meet the requirements of operation, maintenance, repairs, depreciation, interest and an amount sufficient to amortize the judgment debts and all additional capital costs which the purchaser contributes to the plan over a period not exceeding 20 years, and in addition to the foregoing the purchaser of the premises shall be entitled to earn a reasonable amount, as determined by the public service commission, on the actual amount of his investment in the premises represented by the purchase price of the premises, plus any additions made to the same by the purchaser or minus any payments made by the municipality on account of such investments. The municipality may at any time by payment reduce such investment of the purchaser and after full payment of the purchase price plus the cost of subsequent improvements the premises shall revert to the municipality. So long as the premises are owned by the private purchaser, the same shall be considered a public utility and be subject to the provisions of chapter 196 so far as applicable.

(4) The governing body of the municipality may establish sewerage service charges in such amount as to meet all or part of the requirements for the construction, reconstruction, improvement, extension, operation, maintenance, repair and depreciation of the sewerage system, and for the payment of all or part of the principal and interest

of any indebtedness incurred thereof, including the replacement of funds advanced by or paid from the general fund of the municipality.

(5) For the purpose of making equitable charges for all services rendered by the sewerage system to the municipality or to citizens, corporations and other users, the property benefited thereby may be classified, taking into consideration the volume of water, including surface or drain waters, the character of the sewage or waste and the nature of the use made of the sewerage system, including the sewage disposal plant. The charges may also include standby charges to property not connected but for which such facilities have been made available.

(6) Any town, village or city may pledge, assign or otherwise hypothecate the net earnings or profits derived or to be derived from a sewerage system to secure the payment of the costs of purchasing, constructing or otherwise acquiring a sewerage system or any part thereof, or for extending or improving such sewerage system, in the manner provided in section 66.066 (4) as the same has been and from time to time may be amended or recreated.

(7) Sewerage service charges shall be collected and taxed and shall be a lien upon the property served in the same manner as water rates are taxed and collected under the provisions of section 66.069 (1) or 66.071 (1) (e) as the same has been and from time to time may be amended or recreated, so far as applicable.

(8) The governing body of any town, village or city, and the officials in charge of the management of the sewerage system as well as other officers of the municipality, shall be governed in the discharge of their powers and duties under this subsection by the provisions of section 66.069 or 66.071 (1) (e) as the same has been and from time to time may be amended or recreated, which are hereby made a part of this section so far as applicable and not inconsistent herewith.

(9) Upon complaint to the public service commission by any user of the service that rates, rules and practices are unreasonable or unjustly discriminatory, or upon complaint of a holder of a mortgage bond or mortgage certificate or other evidence of debt, secured by a mortgage on the sewerage system or any part thereof or pledge of the income of sewerage service charges, that rates are inadequate, the public service commission shall investigate said complaint, and if sufficient cause therefor appears shall set the matter for a public hearing upon 10 days' notice to the complainant and the town, village or city. After such hearing, if the public service commission shall determine that the rates, rules or practices complained of are unreasonable or unjustly discriminatory, it shall determine and by order fix reasonable rates, rules and practices and shall make such other order respecting such complaint as may be just and reasonable. The proceedings herein shall be governed, as far as applicable, by the provisions of sections 196.26 to 196.405.

(10) Judicial review of the determination of the public service commission may be had by any person aggrieved in the manner prescribed in chapter 227.

(11) The word "sewerage" as used in this section shall be considered a comprehensive term, including all constructions for collection, transportation, pumping, treatment and final disposition of sewage.

(12) The authority hereby given shall be in addition to any power which towns, villages or cities now have with respect to sewerage or sewage disposal. Nothing in this section shall be construed as restricting or interfering with any powers and duties of the state board of health as prescribed by law.

History: 1955 c. 427.

The commission has jurisdiction to establish sewer rates between 2 municipalities under (9), even if the service has been given under a contract for a limited number of years. Kaukauna v. Public Service Comm. 271 W 516, 74 NW (2d) 335.

A sewer service charge imposed before the new treatment plant goes into operation is not invalid prior to such time as not being based on benefits received, where the new plant had been authorized and the contract let. Wm. H. Heinemann Creameries v. Kewaskum, 275 W 636, 82 NW (2d) 902.

66.077 Combining water and sewer utilities. (1) Any town, village, or city of the fourth class may construct, acquire, or lease, or extend and improve, a plant and equipment within or without its corporate limits for the furnishing of water to the municipality or to its inhabitants, and for the collection, treatment, and disposal of sewage, including the lateral, main and intercepting sewers, and all equipment necessary in connection therewith. Such plant and equipment, whether the structures and equipment for the furnishing of water and for the disposal of sewage shall be combined or separate, may by ordinance be constituted a single public utility.

(2) All of the provisions of chapters 66, 196 and 197 as the same shall have been and from time to time may be amended or recreated, relating to a waterworks system, including, but not limited to, those provisions relating to the regulation of a waterworks system by the public service commission, shall apply to such combined waterworks and

sewage disposal system as a single public utility. In prescribing rates, accounting and engineering practices, extension rules, service standards or other regulations for such combined waterworks and sewage disposal system, the public service commission shall treat the waterworks system and the sewage disposal system separately, unless such commission shall find that the public interest requires otherwise.

(3) Any town, village, or city of the fourth class which now owns or hereafter may acquire a waterworks plant and system and a plant or system for the treatment or disposal of sewage may by ordinance combine such system into a single public utility. After the effective date of such ordinance such combined utility shall be subject to all of the provisions of this section with the same force and effect as though originally acquired as a single public utility.

66.078 Refunding village and sanitary district bonds. Any village, or town sanitary district established under section 60.301, which has heretofore undertaken to construct a combined sewer and water system and issued revenue bonds payable from the combined revenues of said system and which is unable to provide sufficient funds to complete the construction of said system and to meet maturing principal of said revenue bonds, may, with the consent of all of the holders of noncallable bonds, refund all or any part of its outstanding indebtedness, including revenue bonds, by issuing term bonds maturing in not exceeding 20 years, payable solely from the revenues of said combined sewer and water system and redeemable at par on any interest payment date. Such bonds may be issued as provided in section 66.066 (2) and shall pledge income from hydrant rentals and all sewer and water charges and may contain any covenants authorized by law; provided that if bonds are issued hereunder to refund floating indebtedness, such bonds shall be subject to the prior lien and claim of all bonds issued to refund revenue bonds theretofore issued.

66.079 Parking systems. Any city or village without necessity of a referendum may purchase, acquire, rent from a lessor, construct, extend, add to, improve, conduct, operate, or rent to a lessee a municipal parking system for the parking of vehicles, including parking lots and other parking facilities, upon its public streets or public grounds and issue mortgage bonds to acquire funds for any one or more of such purposes. Such parking lots and other parking facilities may include space designed for leasing to private persons for purposes other than the parking of vehicles if such space is incidental to the parking purposes of such lots or other facilities. If, in cities of the first class, a charge is made for parking privileges in such a parking system or parking lot and attendants are employed thereat, such a parking system or parking lot shall be leased to private persons; but no such leasing shall be required if such city cannot obtain reasonable terms and conditions in such a lease. The provisions of section 66.066 governing the issuance of mortgage bonds shall apply, so far as applicable, to mortgage bonds issued hereunder. Such municipal parking systems shall constitute public utilities within the purview of article XI, section 3, of the Wisconsin constitution. Mortgage bonds issued under authority hereof shall be payable solely both principal and interest from the revenues to be derived from such parking system, including without limitation revenues from parking meters or other parking facilities theretofore owned or thereafter acquired.

66.08 Utilities, special assessments. (1) Whenever any village or city shall construct or acquire by gift, purchase or otherwise a distribution system or a production or generating plant for the furnishing of light, heat or power to any municipality or its inhabitants or shall make any extensions thereto, such city or village may assess the whole or any part of the cost thereof to the property benefited thereby, whether abutting or not, in the same manner as is provided for the assessment of benefits under s. 66.60.

(2) Such special assessments may be made payable and certificates or bonds issued under s. 66.54. In villages or cities where no official paper is published, notice may be given by posting said notice in 3 public places in said village or city.

History: 1957 c. 131, 132.

66.081 Record of orders and court certificates. The clerk of every town, village, city and county which is not provided with a book which will serve the purposes hereinafter indicated shall obtain and keep a cancellation book in which he shall enter the number and date of each order drawn upon the treasurer of his town, city, village or county, the page of the record of the proceedings of the body which authorized the issuing of such order, the amount thereof, the name of the drawee, the purpose for which it was allowed and the date of its cancellation. Such book shall be furnished by the clerk of each county to the town, city and village clerks therein; he shall prescribe the form and size thereof and procure the same at the expense of the county; upon their receipt he shall transmit them to such clerks and charge their cost to the municipalities to which they are supplied. Immediately after the close of each term of court in any county the

clerk of the court shall file with the county clerk a list of the court certificates drawn on the county treasurer, which list shall specify the number of each certificate, its date, the amount for which it was drawn, the name of the payee and the character of the service performed by him. Said list shall be recorded in a part of the cancellation book set apart for that purpose, which part shall contain a blank column in which shall be entered the date of the cancellation of each certificate. Whenever any town, village, city or county treasurer shall pay or receive in payment of taxes, or for any other purpose equivalent to the payment thereof, any order or court certificate he shall return the same to the proper authorities at their first meeting thereafter, and such evidences of indebtedness shall be canceled by destroying them, and the date of their cancellation shall be immediately entered by the proper clerk in the cancellation book. It shall be the duty of every such clerk on the receipt of such book to enter therein a list of all orders and court certificates which remain outstanding and unpaid.

66.09 Judgment against municipalities. (1) When a final judgment for the payment of money shall be recovered against a town, village, city, county, school district, town sanitary district or community centre, or against any officer thereof, in any action by or against him in his name of office, when the same should be paid by such municipality, the judgment creditor, or his assignee or attorney, may file with the clerk thereof a certified transcript of such judgment or of the docket thereof, together with his affidavit of payments made, if any, and the amount due thereon and that the judgment has not been appealed from or removed to another court, or if so appealed from or removed has been affirmed; and thereupon the amount so due, with costs and interest to the time when the money will be available for its payment, shall be added to the next tax levy, and shall, when received, be paid to satisfy such judgment. If the judgment shall be appealed from after filing the transcript with the clerk, and before the tax is collected, the money shall not be collected on that levy. If the clerk shall fail to include the proper amount in the first tax levy, he shall include it or such portion as shall be required to complete it in the next levy.

(2) In the case of school districts, town sanitary districts or community centres, transcript and affidavit shall be filed with the clerk of the town, village or city in which the district or any part of it lies, and levy shall be made against the taxable property of the district or centre.

(3) No process for the collection of such judgment shall issue until after the time when the money, if collected upon the first tax levy as herein provided, would be available for payment, and then only by leave of court upon motion.

(4) If by reason of dissolution or other cause, pending action, or after judgment, the transcript cannot be filed with the clerk therein designated, it shall be filed with the clerk or clerks whose duty it is to make up the tax roll for the property liable.

66.091 Mob damage. (1) The county shall be liable for injury to person or property by a mob or riot therein, except that within cities the city shall be liable.

(2) Claim therefor must be filed within 6 months thereafter. Such claim may be allowed in whole or in part, as other claims, and procedure to enforce shall be as for other claims.

(3) The city or county may recover all such claims and costs paid by it, against any and all persons engaged in inflicting the injury.

(4) No person shall recover hereunder when the injury was occasioned or in any manner aided, sanctioned, or permitted by him or caused by his negligence, nor unless he shall have used all reasonable diligence to prevent the same, and shall have immediately notified the mayor or sheriff after being apprised of any threat of or attempt at such injury. Every mayor or sheriff receiving such notice shall take all legal means to prevent injury, and if he refuse or neglect to do so, the party injured may elect to hold such officer liable by bringing action against him within 6 months of the injury.

(5) This section shall not apply to property damage to houses of ill fame when the owner has notice that they are used as such.

66.10 Official publication. Whenever in sections 66.01 to 66.08, inclusive, publication is required to be in the official paper of other than a city, and there is no official paper, the publication shall be in a paper published in the municipality and designated by the officers or body conducting the proceedings, and if there be no paper published in the municipality, then in a paper published in the county and having a general circulation in the municipality and so designated, and by posting in at least four public places in the municipality, and if there be also no such paper, then by such posting.

66.11 Eligibility for office. (1) DEPUTY SHERIFFS AND POLICE. No person shall be appointed deputy sheriff or police officer of any county or city unless he is a citizen of the United States and shall have resided in this state continuously for one year immediately

preceding. This section shall not affect common carriers, nor apply to a deputy sheriff not required to take an oath of office nor to a chief of police.

(2) ELIGIBILITY OF OTHER OFFICERS. Except as expressly authorized by statute, no member of a town, village or county board, or city council shall, during the term for which he is elected, be eligible for any office or position which during such term has been created by, or the selection to which is vested in, such board or council, provided that the governing body may be represented on city or village boards and commissions where no additional remuneration is paid such representatives. The governing body may fix the tenure of such representatives notwithstanding any other statutory provision. This subsection shall not apply to a member of any such board or council who resigns from said board or council before being appointed or elected to an office or position which was not created during his term in office.

(3) APPOINTMENTS ON CONSOLIDATION OF OFFICES. Whenever offices are consolidated, the occupants of which are ex officio members of the same statutory committee or board, the common council or village board may designate another officer or officers or make such additional appointments as may be necessary to procure the number of committee or board members provided for by statute.

History: 1953 c. 540; 1955 c. 488; 1957 c. 442.

Member of town board may not be employed by town as fireman. 45 Atty. Gen. 30.

66.112 Fees of officers apprehending tramps. If 2 or more tramps are found congregated for the purpose of encouraging vagrancy or for any other unlawful purpose, they shall be apprehended, conveyed to jail, tried, and if guilty committed as a group; the public officers performing any of those functions are entitled to no greater fee or mileage therefor than if only one person were involved. Any public officer who violates this provision for the purpose of increasing the emoluments of his office may be fined not more than $500 and shall be ineligible to hold such office for a period of 5 years from the date of his conviction.

History: 1955 c. 696.

66.114 Bail under municipal ordinances. (1) When any person is arrested for the violation of a city or village ordinance the chief of police or police officer designated by him, marshal, justice of the peace or clerk of court may accept from such person a bond, in an amount not to exceed the maximum penalty for such violation, with sufficient sureties, or his own personal bond upon depositing the amount thereof in money, for his appearance in the court having jurisdiction of such offense. A receipt shall be issued therefor.

(2) (a) In case the person so arrested and released shall fail to appear, personally or by an authorized attorney or agent, before said court at the time fixed for hearing of the case, then the bond and money deposited, or such portion thereof as the court may determine to be an adequate penalty, plus the costs, may be declared forfeited by the court or may be ordered applied upon the payment of any penalty which may be imposed after an ex parte hearing together with the costs. In either event, the surplus, if any there be, shall be refunded to the person who made such deposit.

(b) The provisions of this subsection shall not apply to violations of parking ordinances. Bond or bail given for appearance to answer a charge under any such ordinance may be forfeited in the manner determined by the governing body.

(3) This section shall not be construed as a limitation upon the general power of cities and villages in all cases of alleged violations of city or village ordinances to authorize the acceptance of bonds or cash deposits or upon the general power to accept stipulations for forfeiture of bonds or deposits or pleas where arrest was had without warrant or where action has not been started in court.

History: 1951 c. 352.

Bail forfeited and fines imposed for violation of municipal and county ordinances belong to the municipality or the county whose ordinance was allegedly violated. 41 Atty. Gen. 166.

66.115 Penalties under county and municipal ordinances. Where a statute requires that the penalty under any county or municipal ordinance shall conform to the penalty provided by statute such ordinance may impose only a fine and may provide for imprisonment in case the fine is not paid.

66.12 Actions for violation of city or village regulations. (1) COLLECTION OF FORFEITURES AND PENALTIES. (a) An action for violation of a city or village ordinance, resolution or by-law is a civil proceeding. All forfeitures and penalties imposed by any ordinance, resolution or by-law of the city or village may be collected in an action in the name of the city or village before the justice of the peace, police justice of the peace, municipal judge or a court of record, to be commenced by warrant or summons; but the

marshal or constable or police officer may arrest the offender in all cases without warrant, as provided in s. 954.03. The affidavit where the action is commenced by warrant shall be the complaint. The affidavit or complaint shall be sufficient if it alleges that the defendant has violated an ordinance, resolution or by-law of the city or village, specifying the same by section, chapter, title or otherwise with sufficient plainness to identify the same.

(b) In case of conviction the court shall enter judgment against the defendant for the costs of prosecution, and for the penalty or forfeiture, if any, and that he be imprisoned for such time, not exceeding 90 days, unless otherwise provided by the ordinance, resolution or by-law, as the court shall deem fit unless the judgment is sooner paid. No such judgment or the imposition of any penalty or costs shall be suspended or deferred for more than 30 days without consent of the city or village which consent may be given by the city or village officer in charge of the prosecution. Prisoners confined in the county jail or in some other penal or correctional institution for violation of a city or village ordinance, resolution or by-law shall be kept at the expense of the city or village.

(2) APPEAL. Appeals in actions to recover forfeitures and penalties imposed by any ordinance, resolution or by-law of the city or village may be taken either by the defendant or by such municipality to the circuit court or court of record in the same manner as from judgments in civil actions by justices of the peace, except that such appeal shall be perfected within 5 days after judgment is entered. If the appeal is taken by the defendant he shall, as a part thereof, execute a bond to the city or village with surety, to be approved by the justice or judge, conditioned that if judgment be affirmed in whole or in part he will pay the same and all costs and damages awarded against him on such appeal. In case such judgment shall be affirmed in whole or in part execution may issue against both defendant and his surety. The appellant shall pay the fees and suit taxes prescribed in s. 306.02 (1). Upon perfection of the appeal the defendant shall be discharged from custody. In all actions brought by a city or village lying in 2 or more counties appeals may be taken to the circuit court or court of record of the county wherein the offense was tried. All commitments to county institutions shall be made to such county.

(3) FINES TO GO TO CITY OR VILLAGE TREASURY. All forfeitures and penalties recovered for the violation of any ordinance, resolution or by-law of any city or village shall be paid into the city or village treasury for the use of such city or village, except as otherwise provided in s. 62.13 (9) (a). The justice of the peace, police justice or judge shall report and pay into the treasury, quarterly, or at more frequent intervals if so required, all moneys collected by him belonging to such city or village, which report shall be certified and filed in the office of the treasurer; and he shall be entitled to duplicate receipts for such moneys, one of which he shall file with the city or village clerk.

(4) CONSTRUCTION. This section shall not be construed to repeal to make ineffective the provisions of any enactment applicable to a municipal court or other court created by special act of the legislature.

History: 1953 c. 448.

66.125 Orders; action; proof of demand. No action shall be brought upon any city, village or school district order until the expiration of 30 days after a demand for the payment of the same shall have been made. If such action is brought and the defendant fails to appear and defend the same judgment shall not be entered without affirmative proof of such demand, and if entered without such proof shall be absolutely void.

History: 1953 c. 540.

66.13 Limitation of action attacking contracts. Whenever the proper officers of any city or village, however incorporated, enter into any contract in manner and form as prescribed by statute, and either party to such contract has procured or furnished materials or expended money under the terms of such contract, no action or proceedings shall be maintained to test the validity of any such contract unless such action or proceedings shall be commenced within sixty days after the date of the signing of such contract.

66.14 Official bonds, premium. Any city, however incorporated, may pay the cost of any official bond furnished by an officer thereof, pursuant to law or any rules or regulations requiring the same, if said officer shall furnish a bond with a surety company or companies authorized to do business in this state, said cost not to exceed the current rate of premium per annum on the amount of said bond or obligation by said surety executed. The cost of any such bond in such city shall be charged to the fund appropriated and set up in the budget for the department, board, commission or other body, the officer of which is required to furnish a bond.

66.145 Requirements for surety bonds of officers and employes in cities of the first class. When any office or position in the service of any city of the first class involves fiduciary responsibility or the handling of money, the appointing officer may require the

appointee to furnish a bond or other security to such officer and the said city for the faithful performance of his duty, the amount to be fixed by the appointing officer, with the approval of the mayor, and notice of the mayor's approval shall be given to the city clerk by the mayor. Each bond shall be approved by the city attorney as to the form and execution thereof, and by the common council as to the sufficiency of the sureties therein; provided, however, that any surety company, the bonds of which are accepted by the judge of any court of record in this state, or which is approved by the comptroller of the said city, shall be sufficient security on any such bond, and that the premium on such bond, within the limits fixed by law, shall be paid out of the city treasury. The appointing officer shall immediately after the execution of such bond file the same with the city clerk, and it shall be the duty of the city clerk to require compliance with the terms of this section requiring the filing of bonds with the city clerk by officers and employes, and all such bonds of city officers and employes, duly witnessed and acknowledged, after being approved by the common council, shall be delivered to the city comptroller, who shall have them recorded in the office of the register of deeds and, after such recording by the city comptroller in the office of the register of deeds, the said bonds shall be returned to the city clerk, who shall keep them on file in his office; except that after the recording of the bond of the city clerk by the city comptroller, said bond shall remain on file in the office of the city comptroller. Each bond filed by any surety company shall be accompanied by a duplicate of said bond, which duplicate shall be filed by the clerk with the city comptroller.

66.18 Liability insurance. The state, and municipalities as defined in s. 345.05, are empowered to procure liability insurance covering both the state or municipal corporation and their officers, agents and employes.

History: 1951 c. 374; 1953 c. 267; 1955 c. 313; 1957 c. 260.

66.185 Hospital, accident and life insurance. Nothing in the statutes shall be construed to limit the authority of the state or municipalities, as defined in s. 345.05, to provide for the payment of premiums for hospital, surgical and other health and accident insurance and life insurance for employes and officers, and such authority is hereby granted.

History: 1951 c. 374; 1955 c. 313; 1957 c. 260.

66.19 Civil service system; veterans' preference. (1) Any city or village may proceed under section 61.34 (1), section 62.11 (5) or section 66.01 to establish a civil service system of selection, tenure and status, and said system may be made applicable to all municipal personnel except the chief executive and members of the governing body, members of boards and commissions including election officials, the teaching staff of the board of education and the board of vocational and adult education, employes subject to section 62.13, members of the judiciary, and supervisors. In the case of veterans there shall be no restrictions as to age and except that other conditions being equal, a preference shall be given in favor of veterans of any of the wars of the United States. Preference is defined to mean that whenever an honorably discharged veteran competes in any examination he shall be accorded 5 points, and if such veteran has a disability which is directly or indirectly traceable to war service, he shall be accorded another 5 points, in addition to earned ratings therein, excepting that such preference as herein defined shall not be granted to any veteran competing in any such examination who shall not have attained at least a passing grade. Such system may also include uniform provisions in respect to attendance, leave regulations, compensation and pay rolls for all personnel included thereunder. The governing body of any city or village adopting a civil service system under the provisions hereof may exempt therefrom the librarians and assistants subject to section 43.165.

(2) (a) Any town with a population of more than 5,000 inhabitants may proceed under section 60.29 (1) to establish a civil service system as provided under subsection (1) and in such departments as the town board may determine. Any person who shall have been employed in any such department for more than 5 years prior to the establishment of such civil service shall be eligible to appointment without examination.

(b) Any town not having a civil service system and having exercised the option of placing assessors under civil service pursuant to section 60.19 (2) (a) may proceed under section 60.29 (1) to establish a civil service system for assessors as provided in subsection (1).

(3) When any town has established a system of civil service, the ordinance establishing the same shall not be repealed for a period of 6 years after its enactment, and thereafter it may be repealed only by proceedings under section 10.43 by referendum vote.

(4) Any civil service system which shall be established under the provisions of this section shall provide for the appointment of a civil service board or commission and for

the removal of the members of such board or commission for cause by the mayor with approval of the council, and in cities organized under the provisions of chapter 64 by the city manager and the council, and by the board in villages and towns.

History: 1951 c. 423, 679.

66.191 Special death and disability benefits for certain public employes subject to Wisconsin retirement act. (1) Whenever a policeman, fireman, conservation warden, deputy state fire marshal, state forest ranger, field employe of the conservation commission who is subject to call for forest fire control or warden duty, member of the state traffic patrol, state university full-time policeman, guard or any other employe whose principal duties are supervision and discipline of inmates at a state penal institution including central state hospital, or state beverage tax investigator who is a participating employe under ss 66.90 to 66.918 shall, while engaged in the performance of duty, be injured or contract a disease due to his occupation, and be found upon examination to be so completely and presumably permanently disabled, either physically or mentally, as to render necessary his retirement from any of the aforesaid services, the industrial commission shall order payment to him monthly, under s. 20.550 (1) or 102.21, of a sum equal to one-half his monthly salary in such service at the time that he became so disabled.

(2) If such injury or disease shall cause the death of such person, and he shall die leaving surviving a widow or an unmarried child under the age of 18 years, the commission shall order monthly payments as follows:

(a) To the widow, unless she shall have married the deceased after he sustained such injury or contracted such disease, one-third of the monthly salary being paid to the deceased in such service at the time of his disability or death, until she marries again.

(b) To the guardian of each such child, $15 until he becomes 18 years of age; provided that the total monthly payments ordered under this subsection shall not exceed 65 per cent of the monthly salary being paid to the deceased in such service at the time of his disability or death, and there shall be a pro rata reduction in the benefits paid hereunder, if necessary, in order to comply with such limitation. On or before January 15 in each year any widow entitled to a benefit under this subsection shall file with the municipality which makes payments hereunder an affidavit stating that she has not married again. The monthly payment ordered to any widow under this subsection shall begin in each calendar year only after such affidavit shall have been filed with the clerk of such municipality, and no payment shall be made for any month in such year prior to the one in which such affidavit was filed.

(c) Any person entitled to death benefit payments under this subsection may file with the commission a written election to waive such payments and accept in lieu thereof such death benefits, burial expenses, and medical and incidental compensation payments as may otherwise be due under ch. 102, but no person shall receive death and burial expense payments under both ch. 102 and this subsection.

(3) Any policeman, fireman or conservation warden who has fulfilled all other requirements for inclusion as a participating employe under the Wisconsin retirement fund shall be eligible to the benefits payable under this section during the qualifying period established pursuant to s. 66.901 (4) (d).

(4) This section shall be administered by the industrial commission, which may adopt necessary rules relating to hearings, investigations and other matters in connection with applications for benefits under this section.

(5) Any person entitled to disability benefit payments under this section may file with the commission a written election to waive such payments and accept in lieu thereof such payments as may otherwise be due under s. 66.907 (2); but no person shall receive disability benefit payments under both s. 66.907 (2) and this section.

History: 1951 c. 518, 618; 1953 c. 397; 1955 c. 283.

Note: Secs. 10 to 12 of ch. 283, Laws 1955, read as follows:

"Section 10. This act is intended to constitute the legislation contemplated in chapter 397, laws of 1953. All cases pending under the temporary provisions of said chapter 397, laws of 1953, shall be disposed of pursuant to this act. The provisions of this act relating to ss. 66.908 (2) (aa) and 102,455 (herein renumbered 66.191), except that portion of s. 66.191 (1) which provides death and disability benefits for the surviving employes of central state hospital or their surviving beneficiaries, shall be retroactive to July 6, 1951. The remainder of this act, except that portion of s. 66.191 (1) which provides death and disability benefits for the surviving employes of central state hospital or their surviving beneficiaries, shall be retroactive to July 9, 1953.

"Section 11. The legislature hereby finds and declares that this remedial legislation is necessary pending further comprehensive study of the relationship between the various death, disability and medical expense benefits under workmen's compensation and the various public employe retirement systems.

"Section 12. Workmen's compensation awards and pension benefits granted pursuant to this act shall not be affected by the repeal of or amendment of this act or by any subsequent act of the legislature, it being intended by this act that workmen's compensation or pension benefits which were temporary in nature as a result of the enactment of chapter 397, laws of 1953 shall be adjusted to conform to the provisions hereof, and as so adjusted shall be permanent, and the recipients of benefits shall have a vested right therein."

A compensation award fixes the rights

of the parties, and a statute (ch. 397, Laws 1953) which purports to enlarge a party's rights retroactively is invalid to that extent. Kleiner v. Milwaukee, 270 W 152, 70 NW (2d) 662.

66.195 Emergency salary adjustments. During the period commencing February 27, 1951, and ending December 31, 1961, the governing body of any county, city, village or town may, during the term of office of any elected official whose salary is paid in whole or in part by such county, city, village or town, increase the salary of such elected official in such amount as the governing body may determine. The power granted by this section shall take effect notwithstanding any other provision of law to the contrary, except that the exercise of such power shall be governed by s. 65.90 (5).

History: 1951 c. 6, 337; 1953 c. 675; 1955 c. 10, 66; 1957 c. 480.

This section authorizes members of municipal governing bodies including counties to increase their pay during their term of office. After the expiration date the provisions of 59.03 (2) (f) as amended by ch. 43, Laws 1951, must control as to the maximum annual salaries of county board members. 40 Atty. Gen. 148.

66.195 constitutes an exception to the salary limitations otherwise applicable to county board supervisors under 59.03 (2) (f). 45 Atty. Gen. 116.
See note to 59.15, citing 45 Atty. Gen. 166.
See note to 59.03, citing 45 Atty. Gen. 256.

66.199 Automatic salary schedules. Whenever the governing body of any city or village shall by ordinance adopt a salary schedule for some or all employes and officers of such city and village, other than those subject to ss. 40.809 and 41.15, such may include an automatic adjustment for some or all of such personnel in conformity with fluctuations upwards and downwards in the cost of living, notwithstanding the provisions of ss. 61.32, 62.09 (6) and 62.13 (7), except that s. 62.13 (7) shall be applicable if such automatic adjustment shall reduce basic salaries in effect January 1, 1940.

66.20 Metropolitan sewerage districts. (1) AUTHORIZED. Metropolitan sewerage districts may be created, governed and maintained as is in sections 66.20 to 66.209 provided, in contiguous territory containing two or more of any of the following municipalities: Any city or village in its entirety or any township or part thereof, located in one or more counties, when so situated that common outlet sewers or disposal plants will be conducive to the preservation of the public health, safety, comfort, convenience or welfare.

(2) DEFINITIONS. For the purposes of sections 66.20 to 66.209 the following provisions and definitions are made:

(a) "District" means metropolitan sewerage district.

(b) "Commission" means metropolitan sewerage commission.

(c) "Commissioner" means a commissioner of the metropolitan sewerage district.

(d) "Interception sewer" means one which receives the dry-weather flow from a number of transverse sewers or outlets with or without a determined amount of storm water from a combined system.

(e) "Main sewer" means one which receives one or more branch sewers as tributaries.

A metropolitan sewerage district, which is a creature of the legislature under 66.20 to 66.209, is a quasi-public or quasi-municipal corporation and, in its relation to the state, is governed by the rules applicable to municipal corporations. Municipalities, such as metropolitan sewerage districts, which derive all their rights and privileges from legislative act, and which are therefore subject to legislative will and may have such rights or privileges abolished by the legislature, are not to be regarded as thereby being deprived of any vested rights. Madison Metropolitan Sewerage Dist. v. Committee, 260 W 229, 50 NW (2d) 424.

66.201 Sewage district; court procedure. (1) JURISDICTION. (a) The county court of any county in this state is vested with jurisdiction, power and authority, when the conditions stated in subsection (2) of this section are found to exist, to establish metropolitan sewerage districts.

(b) Where the proposed district is in more than one county, the county court of the county containing the largest assessed valuation within the proposed district shall have jurisdiction.

(2) PETITION. Before any court shall establish a district as outlined in subsection (1):

(a) A petition signed by 5 per cent of the electors voting for governor at the last general election or by the owners of half the property, in either acreage or assessed value, within the limits of the territory proposed to be organized into such district, shall be filed with the clerk of the county court of the county having jurisdiction.

(b) No petition with the requisite signatures shall be declared null and void on account of alleged defects, but the court may at any time permit the petition to be amended in form and substance to conform to the facts, by correcting any errors in such petition. Several similar petitions or duplicate copies of the same petition for the organization of the same district may be filed prior to the time of the hearing of the first petition, and shall be considered the same as though filed with the first petition. Every such petition

shall be presumed to have been signed and executed by the persons whose signatures appear thereon, until proof to the contrary shall have been made.

(c) The petition shall set forth:

1. The proposed name of said metropolitan sewerage district;
2. The necessity for the proposed work;
3. A general description of territory to be included in the proposed work; and
4. A general outline of the proposed improvements.

(3) BOND. (a) At the time of filing the petition, or at any time subsequent thereto and prior to the time of the hearing on said petition, a bond shall be filed by the petitioners with security approved by the court, sufficient to pay all the expenses connected with the proceedings in case the court refuses to organize the district. If at any time during the proceedings, the court shall deem the bond first executed to be insufficient, it may by order require the execution of an additional bond within a time fixed, but not less than 10 days from the date of such order. Upon failure of the petitioners to execute the same the petition may be dismissed by the court.

(b) In lieu of such bond any municipality or group of municipalities interested in the formation of such district may guarantee the payment of such expense.

(4) HEARING, NOTICE. Immediately after the filing of such petition, the court shall fix a time and place for a hearing on said petition, and shall cause notice by publication to be made of the pendency of the petition and of the time and place of such hearing. Such publication shall be made once a week for 3 consecutive weeks in a newspaper or newspapers of general circulation in the county or counties in which the proposed district is located. The first publication shall be not less than 3 weeks before said hearing. Said court shall also cause notice to be served personally upon the clerk of each municipality having territory in the proposed district, and upon the state health officer at least 3 weeks before said hearing.

(5) OBJECTIONS TO DISTRICT. Any owner of real property, or the governing body of any municipality having territory within the proposed district, wishing to object to the organization thereof shall, on or before the date set for the hearing, file his or their objections to the formation of such district. Such objections shall be limited to questions of jurisdiction or a denial of the statements of the petition. The necessity for the formation of such district shall be heard by the court as an advanced case and without unnecessary delay.

Signers of an original petition to establish a metropolitan sewerage district had a right to withdraw their signatures thereto at any time prior to the date and hour set for the hearing thereon. In re Racine Metropolitan Sewerage Dist. 1 W (2d) 35, 83 NW (2d) 132.

66.202 Sewerage district; judgment. (1) Upon the hearing if it shall appear that the purposes of sections 66.20 to 66.209 will be best served by the creation of a district, the court shall, after disposing of all objections as justice and equity require, by its findings, duly entered of record, adjudicate all questions of jurisdiction, establish the boundaries and declare the district organized and give it a corporate name, by which in all proceedings it shall thereafter be known, and thereupon the district shall be a body corporate with the powers of a municipal corporation for the purposes of carrying out the provisions of sections 66.20 to 66.209.

(2) If the court finds that the territory set out in the petition should not be incorporated into a district, it shall dismiss said proceedings and tax the cost against the signers of the petition. If the district is established, certified bills covering the reasonable costs and disbursements of the petitioners may be presented to the commissioners herein provided for and paid out of the funds of the district.

(3) The state board of health shall be represented at the hearing for the creation of such district and advise with the court.

(4) Should it appear to the court at said hearing that other territory not included in the original petition should be included within the district, the property holders in such additional territory shall be duly notified in such manner as the court shall determine, and a second hearing shall be held at a time and place to be fixed by the court.

(5) The decree of the court, whether for or against the organization of the district, may within 20 days after such decree, be appealed directly to the supreme court by any interested person feeling himself aggrieved, and the question presented upon said appeal shall be determined by such court upon the record made in the lower court.

(6) (a) After 20 days from date of such decree, if no appeal is taken therefrom, the clerk of the court rendering such decree shall transmit to the secretary of state, the secretary of the state board of health, and the register of deeds in each of the counties having lands within the district, copies of the findings and decree of the court incorporating said district. The same shall be filed or recorded in the above mentioned offices in the manner prescribed by law concerning corporations, upon the payment of the requisite fee.

(b) At any time after the copies of the findings and decree of the court incorporating the district shall have been filed and recorded, as herein provided, the owner of any land within the district may, by petition in writing to the commissioners, describing said lands, request that said described lands be detached from the district. When any such petition shall be filed with the commissioners, they shall, except as prescribed in paragraph (e) hereof, fix a time and place of hearing on said petition, which time shall be not less than 30 days from the date of filing the petition, and the secretary of the commission shall give notice thereof by letter to the owner at his post-office address which shall be designated in the petition, and by publication in the official paper of the district once a week for 3 successive weeks.

(c) If upon such hearing the commissioners of the district shall find that the preservation of the public health, safety, comfort, convenience or welfare does not require the continued inclusion of said described lands within the district, an order shall be entered detaching said described lands from the district. If the commissioners do not so find, the petition shall be denied. A copy of the order detaching land from the district shall, within 20 days after such order is made, be filed with the secretary of state, and a copy thereof with the state board of health, and a copy recorded in the office of the register of deeds for each county having land within the district. For the purpose of signing any such petition, the word "owner" shall be deemed to include the guardian, or other legal representative of any minor, or incompetent person owning any such land, and any executor, administrator or other person acting in a representative capacity having legal possession of any such land.

(d) Any owner of land whose petition is denied by the commissioners may, within 30 days from the making of the order denying the petition, appeal therefrom to the county court which established the district. The court shall fix the time and place of hearing of such appeal, which hearing shall be a trial de novo, and the petitioner so appealing shall serve notice thereof in the manner prescribed by the court upon the commissioners of the district; if upon such hearing the court shall find that the preservation of the public health, safety, comfort, convenience and welfare does not require the continued inclusion of the petitioner's lands within the district, an order shall be entered detaching said lands from the district. If the court does not so find, the petition to detach said lands from the district shall be denied. A copy of any order made by the court detaching said lands from the district shall be filed as prescribed for the filing of an order made by the commissioners of the district detaching lands therefrom.

(e) If the land described in the petition is a farm embracing 40 acres or more and is actually used for general farm purposes, the commission may, without hearing, enter an order detaching the land from the district in accordance with the petition, if it appears that the preservation of the public health, safety, comfort and convenience or welfare does not require inclusion of said land within the district. It is the legislative intent that such land under such circumstances should be detached. The order detaching such land shall be made, entered and filed as if such order were made after hearing and with like effect.

(7) Every such district may borrow money and issue its obligations therefor, bearing interest at the rate of not to exceed 6 per centum per annum for a term not exceeding 5 years. At the time any such money is borrowed, and before the obligation therefor shall have been issued, the commissioners shall levy a tax by a resolution similar to that required in subsection (10).

(8) Every such district may issue bonds for the construction and extension of intercepting and main sewers, including rights of way and appurtenances, the acquisition of a sewage disposal site and for the construction and improvement of sewage disposal works. The commissioners in any such district about to issue bonds, shall adopt a resolution stating the amount of said bond, and purpose, or purposes of their issue, and such other and further matter as the commission may deem necessary or useful.

(9) (a) Every such resolution shall be offered and read at a meeting of the commissioners at which all the commissioners are present, and shall be published in the official paper of the district not less than twice during the 30 days next following such reading; and in order to be effective, shall be passed at a meeting of the commissioners at which all are present, held after such publication and within said 30 days. When any such resolution shall be passed, it shall be recorded by being copied at length in a record book kept for that purpose.

(b) Such resolution shall be submitted to a vote of the electors of said district if, within 30 days after the recording thereof, there shall be filed in the office of the secretary of the commission a petition requesting said submission, signed by electors numbering at least 10 per cent of the votes cast for governor in the district at the last general election. When any such petition shall have been filed with the secretary of the commission, he shall immediately notify the clerks of each town, city or village located, or having territory within such district, of the fact that such petition has been filed, calling for a special elec-

tion upon the proposed bond issue; and in order that the said special election may be held upon the same day throughout the district, the secretary shall, in said notice, fix the date of the holding of such special election. Upon receipt of such notice the clerks of each town, village or city located within such district shall call a special election for the purpose of submitting the resolution for the proposed bond issue to the electors of the municipality for approval. In case a part only of a city, town or village is located within the district, the clerk of such city, town or village shall call a special election to be held upon the date fixed by the secretary of said commission, for that portion of the town, city or village which is included within the district, and such electors at such special election shall have the right to vote at a polling place or polling places, in an adjoining town, city or village which is wholly located within the district; the polling place or places shall be designated by the clerk in the notice of such special election, which notice of election for a part only of the municipality shall be posted in 3 public places in that part of the municipality lying within the district. The proceedings in connection with said special election shall be as provided in section 67.05 (5) of the statutes. The votes shall be counted by the inspectors and a return made thereof to the county clerk of the county in which the office of the commissioners of the district is located, and the return thereof shall be canvassed by the board of county canvassers, and the result of such election determined and certified by said board of county canvassers, and the original certificate thereof shall be filed in the office of the county clerk, and a copy certified by said county clerk shall be by him forwarded to the secretary of the commissioners of the district, and filed in the office of said commissioners, and for this purpose the provisions of sections 6.57 to 6.64 of the statutes, shall control in so far as applicable.

(10) The commissioners shall at the time of, or after the adoption of said resolution, and before issuing any of the contemplated bonds, levy by resolution a direct annual tax sufficient in amounts to pay, and for the express purpose of paying the interest on such bonds as it falls due, and also to pay and discharge the principal thereof at maturity.

(11) The commissioners and the district shall be and continue without power to repeal such levy, or obstruct the collection of said tax until all such payments have been made or provided for.

(12) After the issue of said bonds, the commissioners of the district shall, on or before the first day of October in each year, certify in writing to the clerks of the several cities, villages or towns having territory in such district, the total amount of such tax to be raised by each such municipality, and upon receipt of such certificate the clerk of each such municipality shall place the same on the tax roll to be collected as other taxes are collected, and such moneys, when collected, shall be paid to the treasurer of such district.

(13) Every bond so issued by a metropolitan sewerage district shall be a negotiable instrument payable to bearer, or, in case of bonds which are registerable, to bearer or the registered owner, with interest coupons attached payable annually or semiannually; shall be payable not later than the termination of 20 years immediately following the date of the bonds; shall bear interest at a rate not to exceed 6 per centum per annum; shall specify the times and the place, or places, of payment of principal and interest; shall be numbered consecutively with the other bonds of the same issue which shall begin with number one and continue upward, or, if so directed by the governing body, shall begin with any other number and continue upward; shall bear on its face a name indicative of the purpose specified therefor in said resolution; shall contain a statement of the value of all of the taxable property in the district according to the last preceding assessment thereof for state and county taxes, the aggregate amount of the existing bonded indebtedness of such district, that a direct annual irrepealable tax has been levied by the district sufficient to pay the interest when it falls due, and also to pay and discharge the principal at maturity; and may contain any other statement of fact not in conflict with said initial resolution. The entire issue may be composed of a single denomination, or two or more denominations.

(14) The bonds shall be executed in the name of the sewerage district by the president and secretary, and shall be sealed with the seal of the district, if it has a seal. The bonds shall be negotiated and sold, or otherwise disposed of, for not less than par and accrued interest, by the commissioners, and such negotiation and sale, or other disposition, may be effected by disposition from time to time of portions only of the entire issue when the purpose for which the bonds have been authorized does not require an immediate realization upon all of them.

(15) Any such district, when in temporary need, is authorized to borrow money pursuant to the provisions and limitations applicable to cities, of section 67.12 of the statutes.

66.203 Sewage district; commission, appointment, term, oath, duties, pay, treasurer. (1) The district shall be governed by 3 commissioners appointed by the court creating the district, and shall be residents of the district.

(2) At the time of their first appointment one member shall be appointed for a term of 3 years, one for a term of 2 years, and one for a term of one year. Upon the expiration of their several terms of office the county court shall appoint a successor, whose term of office shall be for 3 years and until a successor is appointed and qualified. The county court may remove any member of the commission for cause after notice and hearing and may fill any vacancy.

(3) Each member of the commission shall take and file the official oath.

(4) A majority of such commission shall constitute a quorum to do business, and in the absence of 2 members one member may adjourn any meeting and make announcement thereof. All meetings and records of the commission shall be published.

(5) Such commission, when all of its members have been duly sworn and qualified, shall be a permanent body corporate and shall have charge of all the affairs of the district.

(6) Such commission shall organize by electing one of its members president and another secretary.

(7) The secretary shall keep a separate record of all proceedings and accurate minutes of all hearings.

(8) Each member of the commission shall keep an accurate statement of his necessary expenses and of the services rendered by him together with the dates thereof.

(9) Each member of the commission shall receive as compensation for his actual necessary services $10 per day of 8 hours and proportionately for fractions of days for actual time spent in rendition of services and his actual reasonable expenses. Such compensation and expenses shall be filed as a bill in the court having jurisdiction and when allowed by that court shall be paid by the treasurer of the district out of any moneys in his hands belonging to such district.

(10) The treasurer of the city or village having the largest assessed valuation within the district shall act as treasurer of the district; shall receive such additional compensation therefor as the commission may determine; and shall at the expense of the district furnish such additional bond as the commission may require. Such treasurer shall keep all moneys of the district in a separate fund to be disposed of only upon order of the commission signed by the president and secretary.

(11) The commissioners shall prepare annually a full and detailed report of their official transactions and expenses, and shall file a copy of such statement with the court, the state board of health and the governing bodies of all cities, villages and towns having territory in such district.

66.204 Sewage district; plans, construction, maintenance, operation. (1) (a) The commissioners shall project, plan, construct and maintain in such district intercepting and other main sewers for the collection and transmission of house, industrial and other sewage to a site or sites for disposal selected by them, such sewers to be sufficient, in the judgment of the commissioners, to care for such sewage of the territory included in such district. The commissioners shall project, plan, construct and operate sewage disposal works at a site or sites selected by them which may be located within or outside of the territory included in the district. The commissioners shall also project, plan, construct and maintain intercepting and other main sewers for the collection and disposal of storm water which shall be separate from the sanitary sewerage system.

(b) The commissioners may project and plan scientific experiments, investigations and research on treatment processes and on the receiving waterway to insure that an economical and practical process for treatment is employed and that the receiving waterway meets the requirements of regulating agencies. To this end the commission may conduct such scientific experiments, investigations and research independently or by contract or in cooperation with any public or private agency including any political subdivision of the state or any person or public or private organization.

(2) Except as provided in this section the commissioners shall have the powers and proceed as a common council and board of public works in cities in carrying out the provisions of subsection (1).

History: 1957 c. 289.

66.205 Sewage district; additions. (1) If at any time the commissioners think it desirable to or are petitioned to include other territory in the district, a court proceeding similar to that for the creation of the original district shall be followed, such court proceeding, however, to be only upon the territory to be added and shall in no way affect the original district. A petition signed by the commissioners shall be deemed sufficient to start proceedings for the annexation of territory to the district.

(2) The commissioners may employ and fix compensation for a chief engineer and assistants, clerks, employes and laborers, or do such other things as may be necessary for the due and proper execution of their duties. In their discretion, the commissioners may

employ the chief engineer, agents or employes of any municipality included wholly or partly in the district, as its engineers, agents or employes.

(3) The commissioners or their agents shall have access to all sewerage records of any municipality in the district, and shall require all such municipalities to submit plans of existing systems and proposed extensions. The district shall file with the clerk or other authorized official of each city, village or town having territory within the district a copy of all plans of works to be constructed by the district within such municipality. The district shall also file with each such clerk or other official a copy of all plans of sections of works without the municipality to which the sewerage facilities of such municipality must be connected.

(4) The commissioners or their agents may enter upon the land in any city, village and town in said district for the purpose of making surveys or examinations in the performance of these duties.

(5) The district may enter upon any state, county or municipal street, road or alley, or any public highway within said district for the purpose of installing, maintaining and operating the sewerage system provided for in sections 66.20 to 66.209, and it may construct in any such street, road or alley or public highway, a main sewer, intercepting sewer or any appurtenance thereof, without a permit or a payment of a charge. Whenever such work is to be done in a state, county or municipal highway, the public authority having control thereof shall be duly notified, and said highway shall be restored to as good condition as existed before the commencement of such work, and all costs incident thereto shall be borne by the district.

(6) The district shall have power to lay or construct and to forever maintain, without compensation to the state, any part of said system of sewerage, or of its works, or appurtenances, over, upon or under any part of the bed of any river or of any land covered by any of the navigable waters of the state, the title to which is held by the state, and over, upon or under canals or through waterways, and if the same be deemed advisable by the commission, the proper officers of the state are authorized and directed upon the application of the commission to execute, acknowledge and deliver to the commission such easements, or other grants, as may be proper for the purpose of fully carrying out the provisions of sections 66.20 to 66.209.

(7) Whenever necessary in order to promote the best results from the construction, operation and maintenance of the systems provided for in sections 66.20 to 66.209, and to prevent damage to the same from misuse, the commission may make, promulgate and enforce such reasonable rules and regulations for the supervision, protection, management and use of said system as it may deem expedient, and such regulations shall prescribe the manner in which connections to main sewers and intercepting sewers shall be made, and may prohibit discharge into such sewers, of any liquid or solid waste deemed detrimental to the sewerage system herein provided for.

(8) The district may acquire by gift, purchase, lease or other like methods of acquisition or by condemnation, any land or property situated in said district, and all tenements, hereditaments and appurtenances thereunto belonging or in any way appertaining, or in any interest, franchise, easement, right or privilege therein, which may be required for the purpose of projecting, planning, constructing and maintaining said main sewers, or any part or parts thereof, or that may be needed for the workings of said sewers when established, and so often as resort shall be had to condemnation proceeding, the procedure shall be that provided for by chapter 32, except that the powers therein granted shall be exercised by and in the name of said district in the place and instead of the county board. Furthermore, land or property may be acquired outside of said district for the purposes of sections 66.20 to 66.209.

(9) Before any city, village or town or any person, firm or corporation connects with or uses any main or intercepting sewer it shall obtain the permission of the commission. Prior to permitting such connection the commission shall investigate or cause to be investigated the sewer system for which such connection is requested and if found in a satisfactory condition such connection shall be permitted. Should such system be found defective in operation, construction, design or supervision the commission shall notify the governing body of the city, village or town, or the person, firm or corporation having such system, what alterations, new constructions or change in supervision or operation it shall require, and such connection shall not be permitted until all such requirements have been made.

(10) Nothing in sections 66.20 to 66.209 shall be construed as restricting or interfering with any powers of the state board of health as provided by law.

(11) Lands used for agricultural purposes within any such district shall not be subject to assessment under the provisions of sections 66.20 to 66.209, but as soon as such use ceases such lands shall be subject to assessment for benefits in the manner herein provided.

66.206 Sewage district; special assessments. (1) The commissioners of any such district are authorized to make a special assessment against property which is served by an intercepting sewer, or main sewer, and may make such assessment at any time after the commissioners shall determine by resolution recorded in the minutes of its meeting to construct such intercepting or main sewer, and either before or after the work of constructing such sewer is done.

(2) The commissioners shall view the premises and determine the amount properly assessable against each parcel of land and shall make and file, in their office, a report and schedule of the assessment so made, and file a duplicate copy of such report and schedule in the office of the clerk of the town, village or city wherein such land is situated.

(3) Notice shall be given by the commissioners that such report and schedule is on file in their office and in the office of the clerk of the town, village or city wherein such land is situated, and will so continue for a period of 10 days after the date of such notice; that on the date named therein, which shall not be more than 3 days after the expiration of said 10 days, said commission will be in session at their office, the location of which shall be specified in said notice, to hear all objections that may be made to such report.

(4) Such notice shall be published in the official newspaper of the district, and posted in 3 public places in the town, city or village wherein the land against which such assessment shall have been made is situated.

(5) No irregularity in the form of such report, nor of such notice, shall affect its validity if it fairly contains the information required to be conveyed thereby.

(6) At the time specified for hearing objections to said report, the commissioners shall hear all parties interested who may appear for that purpose.

(7) The commissioners may at such meeting, or at an adjourned meeting, confirm or correct such report, and when such report shall have been so confirmed or corrected, it shall constitute and be the final report and assessment of benefits against such lands.

(8) When such final determination shall have been reached by the commissioners, the secretary thereof shall publish notice in the official paper of the district, once in each week for 2 successive weeks, that a final determination has been made as to the amounts assessed against each parcel of real estate.

(9) If the owner of any parcel of real estate affected by such determination and assessments feels himself aggrieved thereby, he may, within 20 days after the date of such determination, appeal to the circuit court of the county in which his land is situate, and s. 66.60 (12) shall apply to and govern such appeal; provided that the notice therein required to be served upon the city clerk shall be served upon the secretary of the commission, and the bond therein provided for shall be approved by the secretary of said commission, and the duties therein devolving upon the clerk shall be performed by the secretary of the commission.

(10) The commissioners of any such district may provide that such special assessment may be paid in annual instalments not more than 10 in number, and may, for the purpose of anticipating collection of the special assessments, and after said instalments have been determined, issue special improvement bonds payable only out of such special assessment, and s. 66.54 shall apply to and govern the instalment payments and the issuance of said bonds, except that the assessment notice shall be substantially in the following form:

INSTALMENT ASSESSMENT NOTICE

Notice is hereby given that a contract has been (or is about to be) let for (describe the improvement) and that the amount of the special assessment therefor has been determined as to each parcel of real estate benefited thereby, and a statement of the same is on file with the secretary of the district; that it is proposed to collect the same in .... instalments, as provided by s. 66.54, with interest thereon at .... per cent per annum; that all assessments will be collected in instalments, as above provided, except such assessments as the owners of the property shall, within 30 days from the date of this notice, file with the secretary of the commission a statement in writing that they elect to pay in one instalment, in which case the amount of the instalment shall be placed upon the next ensuing tax roll.

(11) Said instalment assessment notice shall be published in the official paper of the district, and posted in 3 public places in the town, city or village wherein the lands against which such special assessment shall have been made, are situate.

(12) The commissioners of such district shall, on or before the first day of October in each year, certify in writing to the clerks of the several cities, towns or villages, the amount of the special assessment against lands located in their respective city, town or village for the ensuing year, and upon receipt of such certificate the clerk of each such city, town or village shall forthwith place the same on the tax roll to be collected as other

taxes and assessments are collected, and such moneys when collected shall be paid to the treasurer of such district. The provisions of law applicable to the collection of delinquent taxes upon real estate, including sale of lands for nonpayment of taxes, shall apply to and govern the collection of said special assessments, and also shall apply to and govern the collection of general taxes levied by the commissioners of any such district.

(13) The provisions of the statutes relating to reassessments shall be applicable to assessments made under the provisions of this section.

History: 1957 c. 132.

66.207 Sewage district; taxation. (1) The commissioners of such district are authorized to levy, on or before the first day of October in each year, a tax upon all the taxable property in the district for the purpose of carrying out the provisions and performing duties under sections 66.20 to 66.209, provided that the amount of any such tax in excess of that required for maintenance and operation and for principal and interest on bonds shall not exceed, in any one year, one mill for each dollar of the assessed valuation of the taxable property in the district, and shall certify in writing to the clerks of the several cities, villages and towns having territory in such district, the total amount of tax assessed against the taxable property in each such municipality lying in whole or in part within the district.

(2) Upon receipt of such report the clerk of each such city, town or village shall forthwith place the same upon the tax roll to be collected as other taxes, and such moneys when collected shall be paid to the treasurer of such district.

66.208 Sewage district; compensation for existing sewers; service charges to state, county or municipality. (1) EXISTING SEWERS TAKEN, COMPENSATION. Should any existing sewer or sewerage disposal plant be taken over by the district, the value of the same shall be agreed upon by the commissioners and the governing body of the municipality owning such sewer or sewerage disposal plant, and such value after approval by the public service commission shall be credited to such municipality. Should the commissioners and governing body of said municipality be unable to agree upon a value, the value shall be determined by and fixed by the public service commission of Wisconsin after a hearing to be had upon application by either party, and upon reasonable notice to the other party, to be fixed and served as said public service commission shall prescribe.

(2) SERVICE CHARGES TO STATE, COUNTY OR MUNICIPALITY. (a) Any such district which shall have constructed, taken over or otherwise acquired a plant for the treatment or disposal of sewage, may charge to the state or county or to any municipality the cost of service rendered thereto by such district in treating or otherwise disposing of sewage at any such plant which is received from any state institution not located within the limits of a city or county institution or premises, or which is collected within the limits of such municipality, and may likewise charge to the state, county or municipality the cost of service rendered to any such state institution, county or municipality in the carrying or transmission of sewage through the sewers of said district, and charge for any other similar service so rendered. The cost of such service shall, in the first instance, be determined and fixed by the commissioners of the district, and shall be paid monthly or annually or at the end of such other periods of time as the said commissioners shall determine; and the municipality or governing body of the institution shall be notified in writing of the amount of the cost of such service, and of the time of payment thereof, by delivering a written statement of the same to the clerk of such municipality, or to said governing body.

(b) If the governing body of such state or county institution or premises, or of the municipality shall not be satisfied with the amount of the cost as fixed by the commissioners, they may, within 30 days, apply to the public service commission, upon reasonable notice to be given to the commissioners of the sewerage district, to be fixed by the public service commission by service on the secretary of the commissioners of the sewerage district, and said public service commission shall, upon hearing, determine and fix the proper amount of the cost of such service.

(c) The state, county or municipality shall pay the amount of the cost of such service to the treasurer of the district from time to time, as shall be fixed and determined by the commissioners of the district, unless the municipality, state or county shall have appealed to the public service commission, in which case payment shall be made within 30 days after the determination of the proper amount by the public service commission, and thereafter from time to time as shall be fixed and determined by the commissioners of the district.

(d) Any municipality making any such payments to any such district, shall have authority to assess the same as a special tax against lands in such municipality which are specially benefited by any such service, or any such municipality may pay the same out of its general fund.

66.209 Sewage district; application of other laws. (1) Sections 59.96 (6) (h) and 66.076 (1), (2) and (4) shall apply to districts organized and existing under ss. 66.20 to 66.209.

History: 1957 c. 60.

66.27 **Relief from conditions of gifts and dedications.** (1) If the governing body of a county, city, town or village accepts a gift or dedication of land made on condition that the land be devoted to a special purpose, and the condition subsequently becomes impossible or impracticable, such governing body may by resolution or ordinance enacted by a two-thirds vote of its members elect either to grant the land back to the donor or dedicator or his heirs, or accept from the donor or dedicator or his heirs, a grant relieving the county, city, town or village of the condition, pursuant to article XI, section 3a, of the constitution.

(2) (a) If such donor or dedicator or his heirs are unknown or cannot be found, such resolution or ordinance may provide for the commencement of an action under this section for the purpose of relieving the county, city, town or village of the condition of the gift or dedication.

(b) Any such action shall be brought in a court of record in the manner provided in ch. 262. A lis pendens shall be filed as provided in s. 281.03 upon the commencement of the action. Service upon persons whose whereabouts are unknown may be made by publication under ss. 262.12 and 262.13.

(c) The court may render judgment in such action relieving the county, city, town or village of the condition of the gift or dedication.

History: 1957 c. 184, 570.

66.28 Municipal sale of abandoned property. Cities and villages may, at a public auction to be held once a year, dispose of any personal property which shall have been abandoned, or shall have remained unclaimed for a period of thirty days after the taking of possession of the same by the city or village officers. All receipts from such sales, after deducting the necessary expenses of keeping such property and conducting such auction, shall be paid into the city or village treasury.

66.29 Public works, contracts, bids. (1) DEFINITIONS. (a) The word "person" as used in this section shall mean and include any and every individual, copartnership, association, corporation or joint stock company, lessee, trustee or receiver.

(b) The term "municipality" shall mean and include the state and any town, city, village, school district, board of school directors, sewer district, drainage district, or any other public or quasi public corporation, officer, board or other public body charged with the duty of receiving bids for and awarding any public contracts.

(c) The term "public contract" shall mean and include any contract for the construction, execution, repair, remodeling, improvement of any public work, building, furnishing of supplies, material of any kind whatsoever, proposals for which are required to be advertised for by law.

(d) "Subcontractor" means a person whose relationship to the principal contractor is substantially the same as to a part of the work as the latter's relationship is to the proprietor. A "subcontractor" takes a distinct part of the work in such a way that he does not contemplate doing merely personal service.

(2) BIDDER'S PROOF OF RESPONSIBILITY. Every municipality, board or public body upon all contracts subject to this section may, before delivering any form for bid proposals, plans and specifications pertaining thereto to any person, excepting materialmen, suppliers and others not intending to submit a direct bid, require such person to submit a full and complete statement sworn to before an officer authorized by law to administer oaths, of financial ability, equipment, experience in the work prescribed in said public contract, and of such other matters as the municipality, board, public body or officer thereof may require for the protection and welfare of the public in the performance of any public contract; such statement shall be in writing on a standard form of a questionnaire as adopted for such use by the municipality, board or public body or officer thereof, to be furnished by such municipality, board, public body or officer thereof. Such statement shall be filed in the manner and place designated by the municipality, board, public body or such officer thereof. Such statements shall not be received less than 5 days prior to the time set for opening of bids. The contents of said statements shall be confidential and shall not be disclosed except upon the written order of such person furnishing the same, or for necessary use by the public body in qualifying such person, or in cases of action against, or by such person or municipality. The governing body of the municipality or such committee, board or employe as is charged with the duty of receiving bids and awarding contracts or to whom the governing body has delegated the power shall properly evaluate the sworn statements filed relative to financial ability, equipment and experience in the work

prescribed and shall find the maker of such statement either qualified or unqualified. This subsection shall not apply to cities of the first class.

(3) PROOF OF RESPONSIBILITY, CONDITION PRECEDENT. No bid shall be received from any person who has not submitted the sworn statement as provided in the preceding sections, provided that any prospective bidder who has once qualified to the satisfaction of the municipality, board, public body or officer, and who wishes to become a bidder upon subsequent public contracts under the jurisdiction of the same, to whose satisfaction the prospective bidder has qualified under the provision of the preceding section, need not separately qualify on each public contract unless required so to do by the said municipality, board, public body or officers.

(4) REJECTION OF BIDS. Whenever the municipality, board, public body or officer is not satisfied with the sufficiency of the answer contained in the questionnaire and financial statement, it may reject said bid, or disregard the same.

(5) CORRECTIONS OF ERRORS IN BIDS. Whenever any person shall submit a bid or proposal for the performance of public work under any public contract to be let by the municipality, board, public body or officer thereof, who shall claim mistake, omission or error in preparing his bid, the said person shall, before the bids are opened, make known the fact that he has made an error, omission or mistake, and in such case his bid shall be returned to him unopened and the said person shall not be entitled to bid upon the contract at hand unless the same is readvertised and relet upon such advertisement. In case any such person shall make an error or omission or mistake and shall discover the same after the bids are opened, he shall immediately and without delay give written notice and make known the fact of such mistake, omission or error which has been committed and submit to the municipality, board, public body or officers thereof, clear and satisfactory evidence of such mistake, omission or error and that the same was not caused by any careless act or omission on his part in the exercise of ordinary care in examining the plans, specifications, and conforming with the provisions of this section, and in case of forfeiture, shall not be entitled to recover the moneys or certified check forfeited as liquidated damages unless he shall prove before a court of competent jurisdiction in an action brought for the recovery of the amount forfeited, that in making the mistake, error or omission he was free from carelessness, negligence or inexcusable neglect.

(6) SEPARATION OF CONTRACTS. On those public contracts calling for the construction, repair, remodeling or improvement of any public building or structure, other than highway structures and facilities, the municipality shall separately let (a) plumbing, (b) heating and ventilating, and (c) electrical contracts where such labor and materials are called for. The municipality shall have the power to set out in any public contract reasonable and lawful conditions as to the hours of labor, wages, residence, character and classification of workmen to be employed by any contractor, and to classify such contractors as to their financial responsibility, competency and ability to perform work and to set up a classified list of contractors pursuant thereto; and such municipality shall further have the power to reject the bid of any person, if such person has not been classified pursuant to the said questionnaire for the kind or amount of work in said bid. Whenever such municipality shall contemplate the letting of any public contract, pursuant to this section, the advertisement for proposals for the doing of the same shall expressly state in effect that the letting is made subject to this section and that such municipality reserves and has the right to reject any and all bids at any time.

(7) BIDDER'S CERTIFICATE. On all contracts the bidder shall incorporate and make a part of his proposal for the doing of any work or labor or the furnishing of any material in or about any public work or contract of the municipality a sworn statement by himself, or if not an individual by one authorized, that he has examined and carefully prepared said proposal from the plans and specifications and has checked the same in detail before submitting said proposal or bid to the municipality, board, department or officer charged with the letting of bids. In all cities of the first class, the awarding authority charged with awarding public construction contracts may, and in all other municipalities, the municipality may by resolution referring specifically to the project under consideration, which resolution shall become effective when incorporated in the bidding documents, require that the bidder at the time of submitting his bid and as a part of said proposal, submit a full and complete list of all the proposed subcontractors enumerated in such resolution, and the class of work to be performed by each, as enumerated and called for in bidding documents which list shall not be added to nor altered without the written consent of the municipality.

(8) SETTLEMENT OF DISPUTES; DEFAULTS. Whenever there is a dispute between the contractor or surety or the municipality as to the determination whether there is a compliance with the provisions of the contract as to the hours of labor, wages, residence, char-

acter, and classification of workmen employed by any contractor, the determination of the municipality shall be final, and in case of violation of said provisions, the municipality may declare the contract in default and request the surety to perform or relet upon advertisement the remaining portion of the contract.

(9) VALIDATION OF PRIOR CONTRACTS. Notwithstanding the amendments made by chs. 406 and 474, laws of 1955, to this section, any public contract made between July 22, 1955, and November 30, 1955 and not in compliance with such amendments, are hereby declared valid and subsisting public contracts if in compliance with s. 66.29 of the 1953 statutes. This subsection is not to be construed as constituting a legislative interpretation of the statutes as to future contracts.

History: 1955 c. 406, 474, 664, 691; 1957 c. 27, 319, 346, 560, 699.

66.293 Contractor's failure to comply with municipal wage scale. (1) It shall be the duty of every city, village, township, county, school board, school district, sewer district, drainage district, commission, public or quasi-public corporation or any other governmental unit, which proposes the making of a contract for any project of public works, to determine the rate of wage scale which shall be paid by the contractor to the employes upon such project. Reference to such rate of wage scale shall be published in the notice issued for the purpose of securing bids for such project. Whenever any contract for a project of public works is entered into, the rate of wage scale shall be incorporated in and made a part of such contract. All employes working upon the project shall be paid by the contractor in accordance with the rate of wage scale incorporated in the contract. Such rate of wage scale shall not be altered during the time that such contract is in force.

(2) Whenever any city, village, township, county, school board, school district, sewer district, drainage district, commission, public or quasi-public corporation or any governmental unit, shall by ordinance, resolution, rule or by-law, establish a rate of wage scale to be paid to employes upon any project of public works by a contractor, be he individual, copartnership, or corporation, and it shall be found upon due proof that such contractor is not paying or has failed to pay the wage scale thus established, or is directly or indirectly, by a system of rebates or otherwise, violating the provisions of such ordinance, rule, resolution or by-law of such city, village, township, county, school board, school district, sewer district, drainage district, commission, public or quasi-public corporation or any governmental unit, such contractor shall be deemed guilty of a misdemeanor and shall be punished therefor by imprisonment in the county jail for a period of not more than one year nor less than 30 days or by a fine of not to exceed $500 for each offense or both.

(3) The failure to pay the required wage to an employe for any one week or part thereof shall be deemed a separate offense.

History: 1953 c. 540.

66.295 Authority to pay for public work done in good faith. (1) Whenever any city or county has received and enjoyed or is enjoying any benefits or improvements furnished prior to August 1, 1957, under any contract which was no legal obligation on such city or county and which contract was entered into in good faith and has been fully performed and the work has been accepted by the proper officials, so as to impose a moral obligation upon such city or county to pay therefor, such city or county, by resolution of its governing body and in consideration of such moral obligation, may pay to the person furnishing such benefits or improvements the fair and reasonable value of such benefits and improvements.

(2) The fair and reasonable value of such benefits and improvements and the funds out of which payment therefor shall be made shall be determined by the governing body of such city or county. Such payments may be made out of any available funds, and said governing body has authority, if necessary, to levy and collect taxes in sufficient amount to meet such payments.

(3) Where payment for any benefits or improvements mentioned in subsections (1) and (2) of this section shall be authorized by the common council of any city and where special assessments shall have been levied for any portion of such benefits or improvements prior to the authorization of such payment, the city authorities shall proceed to make a new assessment of benefits and damages in the manner provided for the original assessment, except that steps required in the laws relating to the original assessment to be taken prior to the ordering or doing of such benefits or improvements may be taken after the authorization of such payment with the same effect as if taken prior to the ordering or doing of such benefits or improvements. The owner of any property affected by such reassessment may appeal therefrom in the same manner as from an original assessment. On such reassessment full credit shall be given for all moneys collected under an original assessment for such benefits and improvements.

History: 1953 c. 683; 1957 c. 34, 669.

A taxpayer's action to recover money paid by a city for tree trimming, done under a contract allegedly let without complying with statutory procedure, was for the en-

forcement of a public, and not a private, right. (1) is not unconstitutional as retroactive legislation violating the due-process clause of the federal constitution because enacted after the commencement of this action and permitting the defendant city to adopt a curative resolution. Leuch v. Egelhoff, 260 W 356, 51 NW (2d) 7.

66.296 Discontinuance of streets and alleys. (1) The whole or any part of any road, street, slip, pier, lane or alley, in any city of the second, third or fourth class or in any incorporated village, may be discontinued by the common council or village board upon the written petition of the owners of all the frontage of the lots and lands abutting upon the portion thereof sought to be discontinued, and of the owners of more than one-third of the frontage of the lots and lands abutting on that portion of the remainder thereof which lies within 2,650 feet of the ends of the portion to be discontinued, or lies within so much of that 2,650 feet as shall be within the corporate limits of the city or village. The beginning and ending of an alley shall be deemed to be within the block in which it is located.

(2) (a) As an alternative, proceedings covered by this section may be initiated by the common council or village board by the introduction of a resolution declaring that since the public interest requires it, the whole or any part of any road, street, slip, pier, lane or alley in the city or village is thereby vacated and discontinued.

(b) A hearing on the passage of such resolution shall be set by the common council or village board on a date which shall not be less than 40 days thereafter. Notice of the hearing shall be given as provided in subsection (5), except that in addition notice of such hearing shall be served on the owners of all of the frontage of the lots and lands abutting upon the portion thereof sought to be discontinued in a manner provided for the service of summons in circuit court at least 30 days before such hearing. When such service cannot be made within the city or village, a copy of the notice shall be mailed to the owner's last known address at least 30 days before the hearing.

(c) No discontinuance shall be ordered if a written objection to the proposed discontinuance is filed with the city or village clerk by any of the owners abutting on the portion sought to be discontinued or by the owners of more than one-third of the frontage of the lots and lands abutting on that portion of the remainder thereof which lies within 2,650 feet from the ends of the portion proposed to be discontinued; or which lies within so much of said 2,650 feet as shall be within the corporate limits of the city or village. The beginning and ending of an alley shall be deemed to be within the block in which it is located.

(3) Whenever any of the lots or lands aforesaid is owned by the state, county, city or village, or by a minor or incompetent person, or the title thereof is held in trust, as to all lots and lands so owned or held, petitions for discontinuance or objections to discontinuance may be signed by the governor, chairman of the board of supervisors of the county, mayor of the city, president of the village, guardian of the minor or incompetent person, or the trustee, respectively, and the signature of any private corporation may be made by its president, secretary or other principal officer or managing agent.

(4) The city council or village board may by resolution discontinue any alley or any portion thereof which has been abandoned, at any time after the expiration of 5 years from the date of the recording of the plat by which it was dedicated. Failure or neglect to work or use any alley or any portion thereof for a period of 5 years next preceding the date of notice provided for in (5) shall be deemed an abandonment for purpose of this section.

(5) Written notice stating when and where the petition or resolution will be acted upon and stating what road, street, slip, pier, lane or alley, or part thereof, is proposed to be discontinued, shall be given as follows: By the publication of the notice in the official or some other newspaper printed in the city or village once a week for 3 successive weeks before the day of hearing, or when such publication is not possible, by posting copies thereof in 3 public places in the city or village not less than 3 weeks before the day of hearing.

(6) In proceedings under this section, section 281.04 shall be considered as a part of the proceedings.

History: 1951 c. 662.

66.299 Intergovernmental purchases without bids. Notwithstanding any statute requiring bids for public purchases, any city, village, town, county or other local unit of government may make purchases from another unit of government, including the state or federal government, without the intervention of bids.

66.30 Local co-operation. (1) Any city, village, town, county or school district may, by action of the governing body thereof, enter into an agreement with any other such governmental unit or units or with the state or any department or agency thereof including building corporations created pursuant to section 37.02 (3) for the joint or co-

operative exercise of any power or duty required or authorized by statute, and as part of such agreement may provide a plan for prorating any expenditures involved.

(2) Any city, village, town, county or school district in the exercise of its powers may contract jointly with any other city, village, town, county or school district for any joint project, wherever each portion of the project is within the scope of authority of the respective city, village, town, county or school district.

History: 1951 c. 241, 268, 293; 1951 c. 734 s. 22.

See note to 43.25, citing 41 Atty. Gen. 335.

66.31 Arrests. Any peace officer of a city, village or town may, when in fresh pursuit, follow into an adjoining city, village or town and arrest any person or persons for violation of state law or of the ordinances of the city, village or town employing such officer.

66.315 Peace officers; compensation when acting outside own municipality. (1) Any chief of police, county traffic officer or other peace officer of any city, village or town, who shall be required by command of the governor, sheriff or other superior authority to maintain the peace or who shall respond to the request of the authorities of another municipality, to perform police or peace duties outside territorial limits of the city, village or town where employed as such officer, shall be entitled to the same wage, salary, pension, workmen's compensation, and all other service rights for such service as for service rendered within the limits of the city, village or town where regularly employed.

(2) All wage and disability payments, pension and workmen's compensation claims, damage to equipment and clothing, and medical expense, shall be paid by the city, village or town regularly employing such peace officer. Upon making such payment such city, village or town shall be reimbursed by the state, county or other political subdivision whose officer or agent commanded the services out of which the payments arose.

History: 1951 c. 435.

66.32 Extraterritorial powers. The extraterritorial powers granted to cities and villages by statute, including ss. 62.23 (2), 66.052, 146.10 and 236.10, shall not be exercised within the corporate limits of another city or village. Wherever such statutory extraterritorial powers shall overlap, the jurisdiction over said overlapping area shall be divided on a line all points of which are equidistant from the boundaries of each municipality concerned so that not more than one municipality shall exercise such power over any area.

History: 1955 c. 570.

66.325 Emergency powers, cities of the first class. (1) Notwithstanding any other provision of law to the contrary, the common council of any city of the first class is empowered to declare, by ordinance or resolution, an emergency existing within such city whenever conditions arise by reason of war, conflagration, flood, heavy snow storm, blizzard, catastrophe, disaster, riot or civil commotion, acts of God, and including conditions, without limitation or restriction because of enumeration, which impair transportation, food or fuel supplies, medical care, fire, health or police protection or other vital facilities of such city. The period of such emergency shall be limited by such ordinance or resolution to the time during which such emergency conditions exist or are likely to exist.

(2) The emergency power of the common council herewith conferred shall include such general authority to order, by ordinance or resolution, whatever is necessary and expedient for the health, safety, welfare and good order of such city in such emergency and shall include such authority as is necessary and expedient without limitation or restriction because of enumeration and shall include the power to bar, restrict or remove all unnecessary traffic, both vehicular and pedestrian, from the local highways, notwithstanding any provision of chs. 341 to 349 or any other provisions of law. The common council may provide penalties for violation of any emergency ordinance or resolution, not to exceed the maximum penalty of $100 fine or, in lieu of paymnet thereof, 6 months' imprisonment for each separate offense.

(3) In the event because of such emergency conditions the common council shall be unable to meet with promptness, the mayor or acting mayor of any city of the first class shall exercise by proclamation all of the powers herewith conferred upon the common council which within the discretion of the mayor are necessary and expedient for the purposes herein set forth; but such proclamation of the mayor shall be subject to ratification, alteration, modification or repeal by the common council as soon as the common council shall be able to meet, but such ratification, alteration, modification or repeal by the common council shall not affect the prior validity or force or effect of such proclamation by the mayor.

(4) All provisions contravening the provisions of this section are hereby repealed.

History: 1957 c. 131, 260.

66.33 Aids to municipalities for prevention and abatement of water pollution. (1) As used in this section the term "municipality" means any city, town, village, town sanitary district or metropolitan sewerage district.

(2) Any municipality is authorized to apply for and accept grants or any other aid which the United States Government or any agency thereof has authorized or may hereafter authorize to be given or made to the several states of the United States or to any political subdivisions or agencies thereof within the states for the construction of public improvements, including all necessary action preliminary thereto, the purpose of which is to aid in the prevention or abatement of water pollution.

(3) Any municipality is further authorized to accept contributions and other aid from commercial, industrial and other establishments for the purpose of aiding in the prevention or abatement of water pollution and in furtherance of such purpose to enter into contracts and agreements with such commercial, industrial and other establishments covering the following:

(a) The collection, treatment and disposal of sewage and industrial wastes from commercial, industrial and other establishments;

(b) The use and operation by such municipality of sewage collection, treatment or disposal facilities owned by any such commercial, industrial and other establishment;

(c) The co-ordination of the sewage collection, treatment or disposal facilities of the municipality with the sewage collection, treatment or disposal facilities of any commercial, industrial and other establishment.

(4) When determined by its governing body to be in the public interest any municipality is authorized to enter into and perform contracts, whether long-term or short-term, with any industrial establishment or establishments providing for sewage or other facilities, including the operation thereof, to abate or reduce the pollution of waters caused in whole or in part by discharges of industrial wastes by the industrial establishment or establishments on such terms as may be reasonable and proper.

(5) The provisions of this section and section 60.307 (9) shall not be construed by way of limitation or restriction of the powers otherwise granted municipalities but shall be deemed as an addition to and a complete alternative to such powers.

66.34 Soil conservation. Any county, city, village or town by its governing body or through a committee designated by it for the purpose, may contract to do soil conservation work on privately owned lands, but no such contract shall involve more than $200 for any one person.

66.35 License for closing-out sales. (1) No person shall conduct in any city a "closing-out sale" of merchandise except in the manner hereinafter provided or in the manner provided by ordinance of such city. Every person shall obtain a city license before retailing or advertising for retail any merchandise represented to be merchandise of a bankrupt, insolvent, assignee, liquidator, adjuster, administrator, trustee, executor, receiver, wholesaler, jobber, manufacturer, or of any business that is in liquidation, that is closing out, closing or disposing of its stock or a particular part or department thereof, that has lost its lease or has been or is being forced out of business, that is disposing of stock on hand because of damage by fire, water, smoke or other cause, or that for any reason is forced to dispose of stock on hand. Such license is denominated a "closing-out sale license" and such sale a "closing-out sale." Such license must be obtained in advance if such advertisement or representation, expressed or implied, tends to lead people to believe that such sale is a selling out or closing-out sale.

(2) Every person requiring a "closing-out sale license" shall make an application in writing to the city clerk in the form provided by said clerk and attach thereto an inventory containing a complete and accurate list of the stock of merchandise on hand to be sold at such sale and shall have attached thereto an affidavit by the applicant or his duly authorized agent, that the inventory is true and correct to the knowledge of the person making such affidavit. Said affidavit shall include the names and addresses of the principals, such as the partners, officers and directors and the principal stockholders and owners of the business, and of the inventoried merchandise. Said inventory shall contain the cost price of the respective articles enumerated therein, together with the date of purchases and the identity of the seller. If the merchandise was purchased for a lump sum or other circumstances make the listing of the cost price for each article impracticable, said inventory shall state the lump sum paid for said merchandise and the circumstances of the purchase. Said application shall further specify the name and address of the applicant, and, if an agent, the person for whom he is acting as an agent, the place at which said sale is to be conducted and the time during which the proposed sale is to continue. The license shall specify the period for which it is granted, which time shall not exceed sixty successive days, Sundays and legal holidays excepted, from the date of the license.

(3) The time during which a sale may be conducted may be extended by the mayor if, at any time during the term of the license, a written application for such extension, duly verified by affidavit of the applicant shall be filed by said licensee with the mayor. Said application shall state the amount of merchandise, listed in the original inventory, which has been sold and the amount which still remains for sale and shall state the time for which an extension is requested. No extension shall be granted if any merchandise has been added to the stock, listed in the inventory, since the date of the license, and the applicant shall satisfy the mayor by affidavit or otherwise, as directed by him, that no merchandise has been added to the said stock since the date of the issuance of the license. The mayor may grant or deny the application and if granted the period of the extension shall be determined by said mayor, but shall not exceed thirty days from the expiration of the original license. If said extension is granted, the same shall be issued by the mayor of said city upon the payment of an additional license fee of twenty-five dollars per day for the time during which it is granted.

(4) It shall be unlawful to sell, offer or expose for sale, at any sale for which a license is required by this section, any merchandise not listed in the inventory, required by subsection (2), except that any merchant may, in the regular course of business, conduct a closing-out sale of merchandise and at the same time sell other merchandise, if the merchandise for the sale of which a license is required shall be distinguished by a tag or otherwise so that said merchandise of said class is readily ascertainable to prospective purchasers, and shall not label or tag other merchandise in a manner to indicate to, or lead, a prospective purchaser to believe that said merchandise is of the class or classes for which a license is required. Each article sold in violation of the provisions hereof, shall constitute a separate offense, and any false or misleading statement in said inventory, application or extension application shall constitute a violation of this section.

(5) The city clerk shall verify the details of such inventory as filed in connection with an application for such license and shall also verify the items of merchandise sold during any sale under said license, and it shall be unlawful for any licensee to refuse to furnish on demand to the city clerk, or any person designated by him for that purpose, all the facts connected with the stock on hand or any other information that he may reasonably require in order to make a thorough investigation of all phases of said sale, so far as they relate to the rights of the public.

(6) The fee for such licenses shall be, and the same is hereby fixed, as follows:
For a period not exceeding fifteen days, twenty-five dollars;
For a period not exceeding thirty days, fifty dollars;
For a period not exceeding sixty days, seventy-five dollars;
And a further fee of one dollar per thousand dollars of the price set forth on the inventory.

(7) This section shall not apply to sales by public officers or sales under judicial process.

(8) The city clerk shall on June first and December first of each year pay into the state treasury, twenty-five per cent of all license fees collected under this section. Provided that the provisions of this subsection shall not apply to license fees collected under the provisions of any closing-out sale ordinance of such city.

(9) Any person violating this section shall, for each violation, forfeit not less than $25 nor more than $200.

66.39 Veterans' housing authorities. (1) VETERANS' HOUSING RESEARCH AND STUDIES. In addition to all the other powers, any housing authority created under sections 66.40 to 66.409 may, within its area of operation, either by itself or in co-operation with the Wisconsin department of veterans' affairs, undertake and carry out studies and analyses of veterans' housing needs and of the meeting of such needs and make the results of such studies available to the public and the building, housing and supply industries.

(2) CREATION OF COUNTY VETERANS' HOUSING AUTHORITIES. (a) In each county of the state there is hereby created a public body corporate and politic to be known as the "Veterans' Housing Authority of .... County", (Name of County) hereafter called "county authority"; provided, however, that such housing authority shall not transact any business or exercise its powers hereunder until or unless the board of supervisors, hereafter called the "governing body", of such county, by proper resolution, shall determine at any time hereafter that there is need for a veterans' housing authority to function in such county. The governing body shall give consideration as to the need for a veterans' housing authority (1) on its own motion or (2) upon the filing of a petition signed by 25 resident veterans of the county asserting that there is need for a veterans' housing authority to function in such county and requesting that its governing body so declare.

(b) The governing body may adopt a resolution declaring that there is need for a veterans' housing authority in the county whenever it shall find that (1) there is a short-

age of safe or sanitary dwelling accommodations for veterans in such county, (2) that such shortage will not be alleviated within a reasonable length of time without the functioning of a veterans' housing authority.

(3) AREA OF OPERATION. The area of operation of the county authority shall include all of the county for which it is created.

(4) PROOF OF POWERS TO ACT. In any suit, action or proceedings involving the validity or enforcement of or relating to any contract of a county authority, such authority shall be conclusively deemed to have become established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of the resolution required by subsection (2) declaring the need for such authority. Each such resolution shall be deemed sufficient if it declares that there is such need for such authority. A copy of such resolution duly certified by the county clerk shall be admissible in evidence in any such action or proceeding.

(5) APPOINTMENT, QUALIFICATIONS AND TENURE OF COMMISSIONERS. (a) When the governing body of a county adopts a resolution creating a county veterans' housing authority, said body shall appoint 5 person as commissioners of the authority created for said county. The commissioners who are first appointed shall be designated to serve for terms of 1, 2, 3, 4 and 5 years, respectively, from the date of their appointment, but thereafter commissioners shall be appointed as aforesaid for a term of office of 5 years, except that all vacancies shall be filled for the unexpired term, such appointments to be made by the official body making the original appointment. A commissioner may be removed by the body which appointed him by a two-thirds vote of all of the members elected to that body. Commissioners shall be reimbursed for their reasonable expenses incurred in the discharge of their duties. No such commissioner or employe of the authority shall acquire any interest direct or indirect in any housing project or in any property included or planned to be included in any project, nor shall he have any interest direct or indirect in any contract or proposed contract for insurance, materials or services to be furnished or used in connection with any veterans' housing project. If any commissioner or employe of the authority owns or controls an interest direct or indirect in any property included or planned to be included in any veterans' housing project he shall immediately disclose the same in writing to the authority and such disclosure shall be entered upon the minutes of the authority. Failure to so disclose such interest shall constitute misconduct in office.

(b) The powers of the county authority shall be vested in the commissioners thereof in office from time to time. A majority of the commissioners of such an authority shall constitute a quorum of such authority for the purpose of conducting its business and exercising its powers and for all other purposes. Action may be taken by a county authority upon a vote of a majority of the commissioners. Meetings of the commissioners of a county authority may be held anywhere within the county.

(c) At the first meeting of the commissioners after their appointment, they shall select one of their members as chairman and one as secretary. The county treasurer shall be the treasurer of the board and his official bond as county treasurer shall extend to cover funds of the authority that may be placed in his charge. He shall disburse money of the authority only upon direction of the commissioners. The county treasurer shall receive no compensation for his services, but he shall be entitled to necessary expenses, including traveling expenses incurred in the discharge of his duties as treasurer of the board. When the office of chairman or secretary of the commissioners becomes vacant for any reason, the commissioners shall select a new chairman or secretary as the case may be. The commissioners may employ technical experts, and such other officers, agents and employes, permanent or temporary, as it may require, and may call upon the district attorney of the county for such legal services as it may require.

(6) ADVANCES BY MUNICIPALITIES TO COUNTY VETERANS' HOUSING AUTHORITIES. The county, or any village, town or city within the county, shall have the power, from time to time, to lend or donate money to the county authority. Any such advance made as a loan may be made upon the condition that the housing authority shall repay the loan out of any money which becomes available to it for the construction of projects.

(7) POWERS OF COUNTY VETERANS' HOUSING AUTHORITIES. Each county veterans' housing authority and the commissioners thereof shall, within its area of operation, have the following functions, rights, powers, duties, privileges, immunities and limitations:

(a) To provide for the construction, reconstruction, improvement, alteration or repair of any veterans' housing project or any part thereof.

(b) To purchase, lease, obtain options upon and acquire by gift, grant, bequest, devise or otherwise, any real or personal property or interest therein.

(c) To arrange or contract for the furnishing of services, privileges, works, or facilities for, or in connection with, a veterans' housing project, or the occupants thereof.

(d) To lease or rent any dwellings, houses, accommodations, lands, buildings, structures or facilities embraced in any veterans' housing project and, subject to the limitations contained in sections 66.39 to 66.404, to establish and revise the rents or charges therefor.

(da) To contract for sale and to sell any part or all of the interest in real estate acquired and to execute such contracts of sale and conveyances as the authority may deem desirable.

(e) To acquire by eminent domain any real property, including improvements and fixtures thereon.

(f) To own, hold, clear and improve property, cause property to be surveyed and platted in its name; to insure or provide for the insurance of the property or operations of the authority against such risks as the authority may deem advisable.

(g) In connection with any loan, to agree to limitations upon its right to dispose of any housing project or part thereof.

(h) To invest any funds held in reserve or sinking funds, or any funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control.

(i) To sue and be sued, to have a seal and to alter the same at its pleasure, to have perpetual succession, to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority.

(j) To make and from time to time amend and repeal by-laws, rules and regulations not inconsistent with sections 66.39 to 66.404, to carry into effect the powers and purposes of the authority.

(l) To exercise all or any part or combination of powers herein granted. No provisions of law with respect to the acquisition or disposition of property by other public bodies shall be applicable to an authority unless the legislature shall specifically so state.

(m) The bonds, notes, debentures or other evidences of indebtedness executed by an authority shall not be a debt or charge against any county, state or other governmental authority, other than against said housing authority itself and its available property, income or other assets in accordance with the terms thereof and of this section, and no individual liability shall attach for any official act done by any member of such authority. No such authority shall have the power to levy any tax or assessment. Provided, however, that for income tax purposes such bonds, notes, debentures or other evidences of indebtedness shall be deemed obligations of a political subdivision of this state.

(8) LAW APPLICABLE. So far as applicable, and not inconsistent with this section, section 66.40 (10) to (21) and (24) shall apply to county veterans' housing authorities and to housing projects, bonds, other obligations and rights and remedies of obligees of such authorities, except that bonds of such authorities shall not bear interest in excess of 3 per cent per annum.

(9) TAX EXEMPTION ON IMPROVEMENTS. Veterans' housing improvements on property of an authority are declared to be public property and as long as the same remain under the jurisdiction of the authority or of bondholders who have proceeded under the provisions of section 66.40 (13) to (20) or 66.39 (8), all such improvements shall be exempt from all taxes of the state or any state public body; all real estate owned by an authority shall be assessed at no higher value than it was assessed for the tax year next preceding the date on which any such real estate was acquired by the authority and this provision shall continue in force as long as said real estate is under the jurisdiction of the authority or of bondholders who have proceeded under the provisions of section 66.40 (13) to (20) or 66.39 (8), provided, however, that the municipality in which a veterans' housing project is located may fix a sum to be paid annually for the services, improvements or facilities furnished to such project by such municipality which sum shall not exceed the amount of the tax which would be assessable against such improvements if they were not exempt from tax.

(11) OPERATION NOT FOR PROFIT. It is declared to be the policy of this state that each housing authority shall operate in an efficient manner so as to provide veterans with permanent housing at the lowest possible cost and that no housing authority shall realize any profit on its operations. Any veteran who occupies a single dwelling unit shall have an option to purchase such unit within 5 years from the date of occupancy at an amount not to exceed the total costs to the housing authority of the land on which said dwelling unit is located, the improvements and the dwelling unit, less a proportionate amount for such allotment as may be received by the authority under ss. 20.036 (12) and 45.354 [Stats. 1953]. The purchase contract shall be in such form and on such terms as may be prescribed by the Wisconsin department of veterans' affairs. If said veteran occupant desires to exercise his option to purchase he shall notify the housing authority of his intention to exercise that option in writing and he shall be allowed a credit on said purchase

price of an amount equal to that portion of the monthly rentals for said unit paid by him that has been credited to or expended for capital retirement or repayment of the principal amount of any mortgage indebtedness, bond indebtedness, or any other indebtedness incurred for the purpose of acquiring the land, improving the land, or constructing the dwelling unit.

(12) MONTHLY COST OF OCCUPANCY BY A VETERAN. Each authority with respect to single dwelling unit veterans' housing projects shall, as soon as the total costs of each dwelling unit including land and improvements have been determined by it, set up a monthly cost of occupancy for said unit. Such cost shall include an amount not exceeding $6 per thousand for interest charges, mortgage insurance and capital retirement or repayment of the principal amount of mortgage indebtedness, bond indebtedness, or any other indebtedness incurred for the purpose of acquiring land, improving the land, or constructing the dwelling unit, and to such basic costs of occupancy may be added the monthly cost of municipal services as determined by the municipality and a reasonable amount for the costs of insurance, operation, maintenance and repair.

(13) TENANT SELECTION, DISCRIMINATION. All tenants selected for veterans' housing projects shall be honorably discharged veterans of wars of the United States of America. Selection between veterans shall be made in accordance with rules and regulations promulgated and adopted by the Wisconsin department of veterans' affairs which regulation said department is authorized to make and from time to time change as it deems proper. Such rules and regulations, however, shall give veterans of World War II preference over veterans of all other wars. Notwithstanding such rules and regulations or any law to the contrary a veteran shall not be entitled to or be granted any benefits under sections 66.39 to 66.404 from a housing authority unless such veteran was at the time of his induction into military service a resident of the state. Veterans otherwise entitled to any right, benefit, facility or privilege under this section shall not, with reference thereto, be denied them in any manner for any purpose nor be discriminated against because of race, color, creed or national origin.

(14) VETERANS' HOUSING. Veterans' housing projects shall be submitted to the planning commission in the manner provided in section 66.404 (3).

History: 1951 c. 261 s. 10; 1955 c. 10.

A veteran who elects to purchase a single family home from a housing authority is entitled to the benefit of the 10 per cent state grant. Each successive veteran renter could assert a right to a 5-year option to purchase a single family home, but would be entitled to no more credit for capital retirement than he himself had paid. The department of veterans affairs has the power to prevent speculative resale of homes by requiring the execution of an option to purchase on a first refusal basis running to a local housing authority. 39 Atty. Gen. 186.

66.40 Housing authorities. (1) SHORT TITLE. Sections 66.40 to 66.404 may be referred to as the "Housing Authorities Law".

(2) FINDING AND DECLARATION OF NECESSITY. It is declared that there exist in the state insanitary or unsafe dwelling accommodations and that persons of low income are forced to reside in such insanitary or unsafe accommodations; that within the state there is a shortage of safe or sanitary dwelling accommodations available at rents which persons of low income can afford and that such persons are forced to occupy overcrowded and congested dwelling accommodations; that the aforesaid conditions cause an increase in and spread of disease and crime and constitute a menace to the health, safety, morals and welfare of the residents of the state and impair economic values; that these conditions necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety, fire and accident protection, and other public services and facilities; that these slum areas cannot be clear, nor can the shortage of safe and sanitary dwellings for persons of low income be relieved, through the operation of private enterprise, and that the construction of housing projects for persons of low income would, therefore, not be competitive with private enterprise; that the clearance, replanning and reconstruction of the areas in which insanitary or unsafe housing conditions exist and the providing of safe and sanitary dwelling accommodations for persons of low income are public uses and purposes for which public money may be spent and private property acquired and are governmental functions of state concern; that it is in the public interest that work on such projects be commenced as soon as possible in order to relieve unemployment which now constitutes an emergency; and the necessity in the public interest for the provisions hereinafter enacted, is declared as a matter of legislative determination.

(2m) DISCRIMINATION. Persons otherwise entitled to any right, benefit, facility or privilege under sections 66.40 to 66.404 shall not, with reference thereto, be denied them in any manner for any purpose nor be discriminated against because of race, color, creed or national origin.

(3) DEFINITIONS. The following terms, wherever used or referred to in sections 66.40 to 66.404 shall have the following respective meanings, unless a different meaning clearly appears from the context:

(a) "Authority" or "housing authority" means any of the public corporations established pursuant to subsection (4).

(b) "City" means any city. "The city" means the particular city for which a particular housing authority is created.

(c) "Council" means the council or other body charged with governing the city.

(d) "City clerk" and "mayor" shall mean the clerk and mayor, respectively, of the city or the officers thereof charged with the duties customarily imposed on the clerk and mayor respectively.

(e) "Area of operation" includes the city for which a housing authority is created and the area within five miles of the territorial boundaries thereof but not beyond the county limits of the county in which such city is located and provided further that in the case of all cities the area of operation shall be limited to the area within the limits of such city unless the city shall annex the area of operation, but the area of operation of a housing authority shall not include any area which lies within the territorial boundaries of any city for which another housing authority is created by this section.

(f) "Commissioner" shall mean one of the members of an authority appointed in accordance with the provisions of sections 66.40 to 66.404.

(g) "Government" includes the state and federal governments and any subdivision, agency or instrumentality corporate or otherwise of either of them.

(h) "State" shall mean the state of Wisconsin.

(i) "Federal government" shall include the United States of America, the federal emergency administration of public works or any agency, instrumentality, corporate or otherwise, of the United States of America.

(j) "Housing projects" shall include all real and personal property, building and improvements, stores, offices, lands for farming and gardening, and community facilities acquired or constructed or to be acquired or constructed pursuant to a single plan or undertaking (a) to demolish, clear, remove, alter or repair insanitary or unsafe housing, or (b) to provide safe and sanitary dwelling accommodations for persons of low income, or for a combination of said (a) and (b). The term "housing project" may also be applied to the planning of buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration and repair of the improvements and all other work in connection therewith.

(k) "Community facilities" shall include real and personal property, and buildings and equipment for recreational or social assemblies, for educational, health or welfare purposes and necessary utilities, when designed primarily for the benefit and use of the housing authority or the occupants of the dwelling accommodations, or for both.

(l) "Bonds" shall mean any bonds, interim certificates, notes, debentures or other obligations of the authority issued pursuant to sections 66.40 to 66.404.

(m) "Mortgage" shall include deeds of trust, mortgages, building and loan contracts, land contracts or other instruments conveying real or personal property as security for bonds and conferring a right to foreclose and cause a sale thereof.

(n) "Trust indenture" shall include instruments pledging the revenues of real or personal properties.

(o) "Contract" shall mean any agreement of an authority with or for the benefit of an obligee whether contained in a resolution, trust indenture, mortgage, lease, bond or other instrument.

(p) "Real property" shall include lands, lands under water, structures, and any and all easements, franchises and incorporeal hereditaments and every estate and right therein, legal and equitable, including terms for years and liens by way of judgment, mortgage or otherwise.

(q) "Obligee of the authority" or "obligee" shall include any bondholder, trustee or trustees for any bondholders, any lessor demising property to the authority used in connection with a housing project or any assignee or assignees or such lessor's interest or any part thereof, and the United States of America, when it is a party to any contract with the authority.

(r) "Slum" means any area where dwellings predominate which, by reason of dilapidation, overcrowding, faulty arrangement or design, lack of ventilation, light or sanitary facilities, or any combination of these factors, are detrimental to safety, health and morals.

(s) "Persons of low income" means persons or families who lack the amount of income which is necessary (as determined by the authority undertaking the housing project) to enable them, without financial assistance, to live in decent, safe and sanitary dwellings, without overcrowding.

(t) "State public body" means any city, town, incorporated village, county, municipal corporation, commission, district, authority, other subdivision or public body of the state.

(4) CREATION OF HOUSING AUTHORITIES. (a) When the council of a city by proper resolution shall declare at any time hereafter that there is need for an authority to function in the city, a public body corporate and politic shall then exist in the city and be known as the "housing authority" of the city. Such authority shall then be authorized to transact business and exercise any powers herein granted to it.

(b) The council shall adopt a resolution declaring that there is need for a housing authority in the city if it shall find that insanitary or unsafe inhabited dwelling accommodations exist in the city or that there is a shortage of safe or sanitary dwelling accommodations in the city available to persons of low income at rentals they can afford. In determining whether dwelling accommodations are unsafe or insanitary said council may take into consideration the degree of overcrowding, the percentage of land coverage, the light, air, space and access available to the inhabitants of such dwelling accommodations, the size and arrangement of the rooms, the sanitary facilities, and the extent to which conditions exist in such buildings which endanger life or property by fire or other causes.

(c) In any suit, action or proceeding involving the validity or enforcement of or relating to any contract of the authority, the authority shall be conclusively deemed to have become established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of a resolution by the council declaring the need for the authority. Such resolution or resolutions shall be deemed sufficient if it declares that there is such need for an authority and finds in substantially the foregoing terms (no further detail being necessary) that either or both of the above enumerated conditions exist in the city. A copy of such resolution duly certified by the city clerk shall be admissible evidence in any suit, action or proceeding.

(5) APPOINTMENT, QUALIFICATIONS AND TENURE OF COMMISSIONERS. (a) When the council of a city adopts a resolution as aforesaid, it shall promptly notify the mayor of such adoption. Upon receiving such notice, the mayor shall, with the confirmation of the council, appoint five persons as commissioners of the authority. No commissioner may be connected in any official capacity with any political party nor shall more than two be officers of the city in which the authority is created. The powers of each authority shall be vested in the commissioners thereof in office from time to time.

(b) The commissioners who are first appointed shall be designated by the mayor to serve for terms of one, two, three, four and five years respectively from the date of their appointment. Thereafter, the term of office shall be five years. A commissioner shall hold office until his successor has been appointed and has qualified. Vacancies shall be filled for the unexpired term in the same manner as other appointments. Three commissioners shall constitute a quorum. The mayor shall file with the city clerk a certificate of the appointment or reappointment of any commissioner and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner if such commissioner has been duly confirmed as herein provided and has duly taken and filed the official oath before entering upon his office. A commissioner shall receive no compensation for his services but he shall be entitled to the necessary expenses including traveling expenses incurred in the discharge of his duties.

(c) When the office of the first chairman of the authority becomes vacant, the authority shall select a chairman from among its members. An authority shall select from among its members a vice-chairman, and it may employ a secretary (who shall be executive director), technical experts and such other officers, agents and employes, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation. An authority may call upon the city attorney or chief law officer of the city for such legal services as it may require. An authority may delegate to one or more of its agents or employes such powers or duties as it may deem proper.

(6) DUTY OF THE AUTHORITY AND COMMISSIONERS OF THE AUTHORITY. The authority and its commissioners shall be under a statutory duty to comply or to cause compliance strictly with all provisions of sections 66.40 to 66.404 and the laws of the state and in addition thereto, with each and every term, provision and covenant in any contract of the authority on its part to be kept or performed.

(7) INTERESTED COMMISSIONERS OR EMPLOYES. No commissioner or employe of an authority shall acquire any interest direct or indirect in any housing project or in any property included or planned to be included in any project, nor shall he have any interest direct or indirect in any contract or proposed contract for insurance, materials or services to be furnished or used in connection with any housing project. If any commissioner or employe of an authority owns or controls an interest direct or indirect in any property included or planned to be included in any housing project, he shall immediately disclose the

same in writing to the authority and such disclosure shall be entered upon the minutes of the authority. Failure to so disclose such interest shall constitute misconduct in office.

(8) REMOVAL OF COMMISSIONERS. For inefficiency or neglect of duty or misconduct in office, a commissioner of an authority may be removed by the mayor, but a commissioner shall be removed only after he shall have been given a copy of the charges at least ten days prior to the hearing thereon and had an opportunity to be heard in person or by counsel. In the event of the removal of any commissioner, a record of the proceedings, together with the charges and findings thereon, shall be filed in the office of the city clerk. To the extent applicable, the provisions of section 17.16 relating to removal for cause shall apply to any such removal.

(9) POWERS OF AUTHORITY. An authority shall constitute a public body and a body corporate and politic, exercising public powers, and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of sections 66.40 to 66.404, including the following powers in addition to others herein granted:

(a) Within its area of operation to prepare, carry out, acquire, lease and operate housing projects approved by the council; to provide for the construction, reconstruction, improvement, alteration or repair of any housing project or any part thereof.

(b) To take over by purchase, lease or otherwise any housing project undertaken by any government and located within the area of operation of the authority when approved by the council; to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, or otherwise, any real or personal property or any interest therein.

(c) To act as agent for any government in connection with the acquisition, construction, operation or management of a housing project or any part thereof.

(d) To arrange or contract for the furnishing of services, privileges, works, or facilities for, or in connection with, a housing project or the occupants thereof.

(e) To lease or rent any dwellings, houses, accommodations, lands, buildings, structures or facilities embraced in any housing project and (subject to the limitations contained in this section) to establish and revise the rents or charges therefor.

(f) Within its area of operation to investigate into living, dwelling and housing conditions and into the means and methods of improving such conditions; and to engage in research and studies on the subject of housing.

(h) To acquire by eminent domain any real property, including improvements and fixtures thereon.

(i) To own, hold, clear and improve property, to insure or provide for the insurance of the property or operations of the authority against such risks as the authority may deem advisable, to procure insurance or guarantees from the federal government of the payment of any debts or parts thereof secured by mortgages made or held by the authority on any property included in any housing project.

(j) To contract for sale and sell any part or all of the interest in real estate acquired and to execute such contracts of sale and conveyances as the authority may deem desirable.

(k) In connection with any loan, to agree to limitations upon its right to dispose of any housing project or part thereof.

(l) In connection with any loan by a government, to agree to limitations upon the exercise of any powers conferred upon the authority by sections 66.40 to 66.404.

(m) To invest any funds held in reserve or sinking funds, or any funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control.

(n) To sue and be sued, to have a seal and to alter the same at pleasure, to have perpetual succession, to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority.

(o) To make and from time to time amend and repeal by-laws, rules and regulations not inconsistent with sections 66.40 to 66.404, to carry into effect the powers and purposes of the authority.

(p) To exercise all or any part or combination of powers herein granted. No provisions of law with respect to the acquisition or disposition of property by other public bodies shall be applicable to an authority unless the legislature shall specifically so state.

(q) The bonds, notes, debentures or other evidences of indebtedness executed by a housing authority shall not be a debt or charge against any city, county, state or any other governmental authority, other than against said housing authority itself and its available property, income or other assets in accordance with the terms thereof and of this act, and no individual liability shall attach for any official act done by any member of such authority. No such authority shall have any power whatsoever to levy any tax or assessment.

(r) To provide by all means available under sections 66.40 to 66.404 housing projects

for veterans and their families regardless of their income. Such projects shall not be subject to the limitations of section 66.402.

(s) Notwithstanding the provisions of any law in conflict herewith, the housing authority of any city is expressly authorized to acquire sites, to prepare, to carry out, acquire, lease, construct and operate housing projects to provide temporary dwelling accommodations for families regardless of income who are displaced under the provisions of sections 66.40 to 66.43, to further slum clearance, urban redevelopment, blight elimination, and to provide temporary dwelling accommodations for families displaced by reason of any street widening, expressway or other public works project causing the demolition of dwellings.

(t) To participate in an employe retirement or pension system of the city which has declared the need for the authority and to expend funds of the authority for such purpose.

(10) EMINENT DOMAIN. (a) The authority shall have the right to acquire by eminent domain any real property, including fixtures and improvements, which it may deem necessary to carry out the purposes of sections 66.40 to 66.404 after the adoption by it of a resolution declaring that the acquisition of the property described therein is in the public interest and necessary for public use. The authority may exercise the power of eminent domain pursuant to the provisions of chapter 32 or pursuant to any other applicable statutory provisions, now in force or hereafter enacted for the exercise of the power of eminent domain.

(b) At any time at or after the filing for condemnation, and before the entry of final judgment, the authority may file with the clerk of the court in which the petition is filed, a declaration of taking signed by the duly authorized officer or agent of the authority declaring that all or any part of the property described in the petition is to be taken for the use of the authority. The said declaration of taking shall be sufficient as it sets forth: (1) a description of the property, sufficient for the identification thereof, to which there may be attached a plat or map thereof; (2) a statement of the estate or interest in said property being taken; (3) a statement of the sum of money estimated by the authority to be just compensation for the property taken, which sum shall be not less than the last assessed valuation for tax purposes of the estate or interest in the property to be taken.

(c) From the filing of the said declaration of taking and the deposit in court to the use of the persons entitled thereto of the amount of the estimated compensation stated in said declaration, title to the property specified in said declaration shall vest in the authority and said property shall be deemed to be condemned and taken for the use of the authority and the right to just compensation for the same shall vest in the persons entitled thereto. Upon the filing of the declaration of taking the court shall designate a day (not exceeding 30 days after such filing, except upon good cause shown) on which the person in possession shall be required to surrender possession to the authority.

(d) The ultimate amount of compensation shall be vested in the manner provided by law. If the amount so vested shall exceed the amount so deposited in court by the authority, the court shall enter judgment against the authority in the amount of such deficiency together with interest at the rate of 6 per cent per annum on such deficiency from the date of the vesting of title to the date of the entry of the final judgment (subject, however, to abatement for use, income, rents or profits derived from such property by the owner thereof subsequent to the vesting of title in the authority) and the court shall order the authority to deposit the amount of such deficiency in court.

(e) At any time prior to the vesting of title of property in the authority the authority may withdraw or dismiss its petition with respect to any and all of the property therein described.

(f) Upon vesting of title to any property in the authority, all the right, title and interest of all persons having an interest therein or lien thereupon, shall be divested immediately and such persons thereafter shall be entitled only to receive compensations for such property.

(g) Except as hereinabove provided with reference to the declaration of taking, the proceedings shall be as is or may hereafter be provided by law for condemnation, and the deposit in court of the amount estimated by the authority upon a declaration of taking, shall be disbursed as is or may hereafter be provided by law for an award in condemnation proceedings.

(h) Property already devoted to a public use may be acquired, provided that no property belonging to any city or municipality or to any government may be acquired without its consent and that no property belonging to a public utility corporation may be acquired without the approval of the commission or other officer or tribunal, if any there be, having regulatory power over such corporation.

(11) ACQUISITION OF LAND FOR GOVERNMENT. The authority may acquire by purchase or by the exercise of its power of eminent domain as aforesaid, any property, real or per-

sonal, for any housing project being constructed or operated by a government. The authority upon such terms and conditions, with or without consideration, as it shall determine, may convey title or deliver possession of such property so acquired or purchased to such government for use in connection with such housing project.

(12) ZONING AND BUILDING LAWS. All housing projects of an authority shall be subject to the planning, zoning, sanitary and building laws, ordinances and regulations applicable to the locality in which the housing project is situated.

(13) TYPES OF BONDS. (a) An authority shall have power to issue bonds from time to time in its discretion, for any of its corporate purposes. An authority may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds on which the principal and interest are payable: (1) exclusively from the income and revenues of the housing project financed with the proceeds of such bonds, or with such proceeds together with a grant from the federal government in aid of such project; (2) exclusively from the income and revenues of certain designated housing projects whether or not they were financed in whole or in part with the proceeds of such bonds; or (3) from its revenues generally. Any of such bonds may be additionally secured by a pledge of any revenues or (subject to the limitation hereinafter imposed) a mortgage of any housing project, projects or other property of the authority.

(b) Neither the commissioners of the authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof.

(c) The bonds and other obligations of the authority (and such bonds and obligations shall so state on their face) shall not be a debt of any city or municipality located within its boundaries or of the state and neither the state nor any such city or municipality shall be liable thereon, nor in any event shall they be payable out of any funds or properties other than those of the authority.

(14) FORM AND SALE OF BONDS. (a) Bonds of an authority shall be authorized by its resolution and may be issued in one or more series and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, not exceeding six per centum per annum, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption (with or without premium) as such resolution, its trust indenture or mortgage may provide. Any bond reciting in substance that it has been issued by an authority to aid in financing a housing project to provide dwelling accommodations for persons of low income shall be conclusively deemed, in any suit, action or proceeding involving the validity or enforceability of such bond or the security therefor, to have been issued for a housing project of such character. Bonds of an authority are declared to be issued for an essential public and governmental purpose and to be public instrumentalities and, together with interest thereon and income therefrom, shall be exempt from taxes.

(b) The bonds may be sold at public or private sale as the authority may provide. The bonds may be sold at such price or prices as the authority shall determine provided that the interest cost to maturity of the money received for any issue of said bonds shall not exceed six per centum per annum.

(c) In case any of the officers whose signatures appear on any bonds or coupons shall cease to be such officers before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if they had remained in office until such delivery.

(d) The authority shall have power out of any funds available therefor to purchase any bonds issued by it at a price not more than the principal amount thereof and the accrued interest; provided, however, that bonds payable exclusively from the revenues of a designated project or projects shall be purchased only out of any such revenues available therefor. All bonds so purchased shall be cancelled. This paragraph shall not apply to the redemption of bonds.

(e) Any provision of any law to the contrary notwithstanding, any bonds, interim certificates, or other obligations issued pursuant to sections 66.40 to 66.404 shall be fully negotiable.

(15) PROVISIONS OF BONDS, TRUST INDENTURES, AND MORTGAGES. In connection with the issuance of bonds or the incurring of any obligation under a lease and in order to secure the payment of such bonds or obligations, the authority shall have power:

(a) To pledge by resolution, trust indenture, mortgage (subject to the limitations hereinafter imposed), or other contract all or any part of its rents, fees, or revenues.

(b) To covenant against mortgaging all or any part of its property, real or personal, then owned or thereafter acquired, or against permitting or suffering any lien thereon.

(c) To covenant with respect to limitations on its right to sell, lease or otherwise dispose of any housing project or any part thereof, or with respect to limitations on its right to undertake additional housing projects.

(d) To covenant against pledging all or any part of its rents, fees and revenues to which its right then exists or the right to which may thereafter come into existence or against permitting or suffering any lien thereon.

(e) To provide for the release of property, rents, fees and revenues from any pledge or mortgage, and to reserve rights and powers in, or the right to dispose of, property which is subject to a pledge or mortgage.

(f) To covenant as to the bonds to be issued pursuant to any resolution, trust indenture, mortgage or other instrument and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof.

(g) To provide for the terms, form, registration, exchange, execution and authentication of bonds.

(h) To provide for the replacement of lost, destroyed or mutilated bonds.

(i) To covenant that the authority warrants the title to the premises.

(j) To covenant as to the rents and fees to be charged, the amount to be raised each year or other period of time by rents, fees and other revenues and as to the use and disposition to be made thereof.

(k) To covenant as to the use of any or all of its property, real or personal.

(l) To create or to authorize the creation of special funds in which there shall be segregated (a) the proceeds of any loan or grant or both; (b) all of the rents, fees and revenues of any housing project or projects or parts thereof; (c) any moneys held for the payment of the costs of operations and maintenance of any such housing projects or as a reserve for the meeting of contingencies in the operation and maintenance thereof; (d) any moneys held for the payment of the principal and interest on its bonds or the sums due under its leases or as a reserve for such payments; and (e) any moneys held for any other reserves or contingencies; and to covenant as to the use and disposal of the moneys held in such funds.

(m) To redeem the bonds, and to covenant for their redemption and to provide the terms and conditions thereof.

(n) To covenant against extending the time for the payment of its bonds or interest thereon, directly or indirectly, by any means or in any manner.

(o) To prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given.

(p) To covenant as to the maintenance of its property, the replacement thereof, the insurance to be carried thereon and the use and disposition of insurance moneys.

(q) To vest in an obligee of the authority the right, in the event of the failure of the authority to observe or perform any covenant on its part to be kept or performed, to cure any such default and to advance any moneys necessary for such purpose, and the moneys so advanced may be made an additional obligation of the authority with such interest, security and priority as may be provided in any trust indenture, mortgage, lease or contract of the authority with reference thereto.

(r) To covenant and prescribe as to the events of default and terms and conditions upon which any or all of its bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived.

(s) To covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition or obligation.

(t) To covenant to surrender possession of all or any part of any housing project or projects upon the happening of an event of default (as defined in the contract) and to vest in an obligee the right to take possession and to use, operate, manage and control such housing projects or any part thereof, and to collect and receive all rents, fees and revenues arising therefrom in the same manner as the authority itself might do and to dispose of the moneys collected in accordance with the agreement of the authority with such obligee.

(u) To vest in a trust or trustees the right to enforce any covenant made to secure, to pay, or in relation to the bonds, to provide for the powers and duties of such trustee or trustees, to limit liabilities thereof and to provide the terms and conditions upon which the trustee or trustees or the holders of bonds or any proportion of them may enforce any such covenant.

(v) To make covenants other than and in addition to the covenants herein expressly authorized, of like or different character.

(w) To execute all instruments necessary or convenient in the exercise of the powers herein granted or in the performance of its covenants or duties, which may contain such

covenants and provisions, in addition to those above specified as the government or any purchaser of the bonds of the authority may reasonably require.

(x) To make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or in the absolute discretion of the authority tend to make the bonds more marketable; notwithstanding that such covenants, acts or things may not be enumerated herein; it being the intention hereof to give the authority power to do all things in the issuance of bonds, in the provisions for their security that are not inconsistent with the constitution of the state and no consent or approval of any judge or court shall be required thereof; provided, however, that the authority shall have no power to mortgage all or any part of its property, real or personal, except as provided in subsection (16) hereof.

(16) POWER TO MORTGAGE WHEN PROJECT FINANCED WITH AID OF GOVERNMENT. In connection with any project financed in whole or in part, or otherwise aided by a government (whether through a donation of money or property, a loan, the insurance or guarantee of a loan, or otherwise), the authority shall also have power to mortgage all or any part of its property, real or personal, then owned or thereafter acquired.

(17) REMEDIES OF AN OBLIGEE OF AUTHORITY. An obligee of the authority shall have the right in addition to all other rights which may be conferred on such obligee subject only to any contractual restrictions binding upon such obligee:

(a) By mandamus, suit, action or proceeding in law or equity (all of which may be joined in one action) to compel the authority, and the commissioners, officers, agents or employes thereof to perform each and every term, provision and covenant contained in any contract of the authority, and to require the carrying out of any or all covenants and agreements of the authority and the fulfillment of all duties imposed upon the authority by sections 66.40 to 66.404.

(b) By suit, action or proceeding in equity to enjoin any acts or things which may be unlawful, or the violation of any of the rights of such obligee of the authority.

(c) By suit, action or proceeding in any court of competent jurisdiction to cause possession of any housing project or any part thereof to be surrendered to any obligee having the right to such possession pursuant to any contract of the authority.

(18) ADDITIONAL REMEDIES CONFERRABLE BY MORTGAGE OR TRUST INDENTURE. Any authority shall have power by its trust indenture, mortgage, lease or other contract to confer upon any obligee holding or representing a specified amount in bonds, lease or other obligations, the right upon the happening of an "event of default" as defined in such instrument:

(a) By suit, action or proceeding in any court of competent jurisdiction to obtain the appointment of a receiver of any housing project of the authority or any part or parts thereof. If such receiver be appointed, he may enter and take possession of such housing project or any part or parts thereof and operate and maintain same, and collect and receive all fees, rents, revenues or other charges thereafter arising therefrom in the same manner as the authority itself might do and shall keep such moneys in a separate account or accounts and apply the same in accordance with the obligations of the authority as the court shall direct.

(b) By suit, action or proceeding in any court of competent jurisdiction to require the authority and the commissioners thereof to account as if it and they were the trustees of an express trust.

(19) REMEDIES CUMULATIVE. All the rights and remedies hereinabove conferred shall be cumulative and in addition to all other rights and remedies that may be conferred upon such obligee of the authority by law or by any contract with the authority.

(20) SUBORDINATION OF MORTGAGE TO AGREEMENT WITH GOVERNMENT. The authority may agree in any mortgage made by it that such mortgage shall be subordinate to a contract for the supervision by a government of the operation and maintenance of the mortgaged property and the construction of improvements thereon; in such event, any purchaser or purchasers at a sale of the property of an authority pursuant to a foreclosure of such mortgage or any other remedy in connection therewith shall obtain title subject to such contract.

(21) CONTRACTS WITH FEDERAL GOVERNMENT. In addition to the powers conferred upon the authority by other provisions of sections 66.40 to 66.404, the authority is empowered to borrow money or accept grants from the federal government for or in aid of any housing project which such authority is authorized to undertake, to take over any land acquired by the federal government for the construction or operation of a housing project, to take over or lease or manage any housing project constructed or owned by the federal government, and to these ends, to enter into such contracts, mortgages, trust indentures, leases or other agreements as the federal government may require including agree-

ments that the federal government shall have the right to supervise and approve the construction, maintenance and operation of such housing project. It is the purpose and intent of this section to authorize every council to do any and all things necessary to secure the financial aid and the co-operation of the federal government in the undertaking, construction, maintenance and operation of any housing project which the authority is empowered to undertake.

(22) TAX EXEMPTION AND PAYMENTS IN LIEU OF TAXES. The property of an authority is declared to be public property used for essential public and governmental purposes and such property and an authority shall be exempt from all taxes of the state or any state public body; provided, however, that the city in which a project or projects are located may fix a sum to be paid annually in lieu of such taxes by the authority for the services, improvements or facilities furnished to such project or projects by such city, but in no event shall such sum exceed the amount that would be levied as the annual tax of such city upon such project or projects.

(23) REPORTS. The authority shall at least once a year file with the mayor of the city a report of its activities for the preceding year.

(24) BIDS. When a housing authority shall have the approval of the council for any project authorized under subsection (9) (a) or (b), said authority shall complete and approve plans, specifications and conditions in connection therewith for carrying out such project, and shall then advertise for bids for all work which said authority must do by contract, such advertisements to be published once a week for 2 consecutive weeks in a newspaper of general circulation in the city in which the project is to be developed. The contract shall be awarded to the lowest qualified and competent bidder. Section 66.29 of the statutes shall apply to such bidding.

(25) LIQUIDATION AND DISPOSAL OF HOUSING PROJECTS. (a) In any city or village the city council or village board by resolution or ordinance, or the electors by referendum under s. 10.43, may provide that the authority shall liquidate and dispose of a particular project or projects held and operated under ss. 66.40 to 66.404 or 66.43.

(b) Whenever liquidation and disposal of a project is provided for under par. (a) the housing authority or other designated agency shall sell such project to the highest bidder after public advertisement, or transfer it to any state public body authorized by law to acquire such project. No such project shall be sold for less than its fair market value as determined by a board of 3 licensed appraisers appointed by the city council or village board.

(c) The arrangements for the liquidation and disposal of a project shall provide for the payment and retirement of all outstanding obligations in connection with the project, together with interest thereon and any premiums prescribed for the redemption of any bonds, notes or other obligations before maturity.

(d) Any proceeds remaining after payment of such obligations under par. (c) shall be distributed in accordance with the federal law applicable at the time of the liquidation and disposal of the project. If no federal law is applicable to the liquidation and disposal of the project all of such remaining proceeds shall be paid to the city or village.

(e) If the highest bid received is insufficient for the payment of all obligations set forth in par. (c) the project shall not be sold unless the city or village provides sufficient additional funds to discharge such obligations.

(f) In order to carry out this subsection an authority or other designated agency shall exercise any option available to it for the payment and redemption of outstanding obligations set forth in par. (c) before maturity, if the city or village provides funds for such payment and redemption.

(g) No actions taken under this subsection shall affect or diminish the rights of any bondholders or other obligees of the authority.

(h) The term "outstanding obligations" or "obligations" as used herein includes bonds, notes or evidences of indebtedness, as well as aids, grants, contributions or loans made by or received from any federal, state or local political government or agency.

History: 1953 c. 356; 1955 c. 682; 1957 c. 642.

This section does not grant unlimited authority to a housing authority to engage in the housing business regardless of the nature, character, or purpose of the venture; under (2) and (9), it is only when the purpose of such law is to be effectuated that the housing authority may proceed. On general demurrer, where it appears from the allegations of a complaint seeking an injunction against the issuance of housing bonds that there is no need for the proposed housing project, the resolution of the housing authority that the need exists is contrary to the facts as the demurrer admits them and is not binding on the court although (4) (c) provides that such a resolution is conclusive and not subject to judicial review. Jolly v. Greendale Housing Authority, 259 W 407, 49 NW (2d) 191.

See note to sec. 3, art. I, citing Lawson v. Housing Authority, 270 W 269, 70 NW (2d) 605.

See note to 66.901, citing 45 Atty. Gen. 180.

66.401 Housing authorities; operation not for profit. (1) It is declared to be the policy of this state that each housing authority shall manage and operate its housing projects in an efficient manner so as to enable it to fix the rentals for dwelling accommodations at the lowest possible rates consistent with its providing decent, safe and sanitary dwelling accommodations, and that no housing authority shall construct or operate any such project for profit, or as a source of revenue to the city.

(2) To this end an authority shall fix the rentals for dwellings in its projects at no higher rates than it shall find to be necessary in order to produce revenues which (together with all other available moneys, revenues, income and receipts of the authority from whatever sources derived) will be sufficient:

(a) To pay, as the same become due, the principal and interest on the bonds of the authority;

(b) To meet the cost of, and to provide for, maintaining and operating the projects (including the cost of any insurance) and the administrative expenses of the authority;

(c) To create (during not less than the 6 years immediately succeeding its issuance of any bonds) a reserve sufficient to meet the largest principal and interest payments which will be due on such bonds in any one year thereafter and to maintain such reserve.

66.402 Housing authorities; rentals and tenant selection. (1) In the operation or management of housing projects an authority shall at all times observe the following duties with respect to rentals and tenant selection:

(a) It may rent or lease the dwelling accommodations therein only to persons of low income and at rentals within the financial reach of such persons of low income.

(b) It may rent or lease to a tenant dwelling accommodations consisting of the number of rooms (but no greater number) which it deems necessary to provide safe and sanitary accommodations to the proposed occupants thereof, without overcrowding.

(c) It shall not accept any person as a tenant in any housing project if the person or persons who would occupy the dwelling accommodations have an aggregate annual income in excess of 5 times the annual rental of the quarters to be furnished such person or persons, except that in the case of families with minor dependents such aggregate annual income may exceed 5 times the annual rental of the quarters to be furnished by $100 for each minor dependent or by an amount equal to the annual income of the minor dependents; in computing the rental for this purpose of selecting tenants, there shall be included in the rental the average annual cost (as determined by the authority) to the occupants, of heat, water, electricity, gas, cooking range and other necessary services or facilities, whether or not the charge for such services and facilities is in fact included in the rental. For the purposes of this subsection, a minor shall mean a person less than 21 years of age.

(2) Nothing contained in the housing authorities law, as hereby amended, shall be construed as limiting the power of an authority:

(a) To invest in an obligee the right, in the event of a default by the authority, to take possession of a housing project or cause the appointment of a receiver thereof, free from all the restrictions imposed by said law, as amended, with respect to rentals, tenant selection, manner of operation, or otherwise; or

(b) Pursuant to section 66.40 (16) to vest in obligees the right, in the event of a default by the authority, to acquire title to a housing project or the property mortgaged by the housing authority, free from all the restrictions imposed by sections 66.401 and 66.402.

66.403 Housing authorities; co-operation in housing projects. For the purpose of aiding and co-operating in the planning, undertaking, construction or operation of housing projects located within the area in which it is authorized to act, any state public body may upon such terms, with or without consideration, as it may determine:

(1) Dedicate, sell, convey or lease any of its property to a housing authority or the federal government;

(2) Cause parks, playgrounds, recreational, community, educational, water, sewer or drainage facilities, or any other works which it is otherwise empowered to undertake, to be furnished adjacent to or in connection with housing projects;

(3) Cause services to be furnished to the authority of the character which it is otherwise empowered to furnish;

(4) Subject to the approval of the council, furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads, roadways, alleys, sidewalks or other places which it is otherwise empowered to undertake;

(5) Enter into agreements, (which may extend over any period, notwithstanding any provision or rule of law to the contrary) with a housing authority or the federal govern-

ment respecting action to be taken by such state public body pursuant to any of the powers granted by sections 66.40 to 66.404;

(6) Do any and all things, necessary or convenient to aid and co-operate in the planning, undertaking, construction or operation of such housing projects;

(7) Purchase or legally invest in any of the bonds of a housing authority and exercise all of the rights of any holder of such bonds;

(8) With respect to any housing project which a housing authority has acquired or taken over from the federal government and which the housing authority by resolution has found and declared to have been constructed in a manner that will promote the public interest and afford necessary safety, sanitation and other protection, no state public body shall require any changes to be made in the housing project or the manner of its construction or take any other action relating to such construction;

(9) In connection with any public improvements made by a state public body in exercising the powers herein granted, such state public body may incur the entire expense thereof. Any law or statute to the contrary notwithstanding, any sale, conveyance, lease or agreement provided for in sections 66.40 to 66.404 may be made by a state public body without appraisal, public notice, advertisement or public bidding.

66.404 Housing authorities; contracts with city; assistance to counties and municipalities. (1) CONTRACTS BETWEEN AUTHORITY AND CITY. In connection with any housing project located wholly or partly within the area in which it is authorized to act, any city may agree with an authority or government that a certain sum (subject to the limitations imposed by section 66.40 (22)), or that no sum, shall be paid by the authority in lieu of taxes for any year or period of years.

(2) ADVANCES TO HOUSING AUTHORITY. When any housing authority which is created for any city becomes authorized to transact business and exercise its powers therein, the governing body of the city, may immediately make an estimate of the amount of money necessary for the administrative expenses and overhead of such housing authority during the first year thereafter, and may appropriate such amount to the authority out of any moneys in such city treasury not appropriated to some other purposes. The moneys so appropriated may be paid to the authority as a donation. Any city, town or incorporated village located in whole or in part within the area of operation of a housing authority shall have the power from time to time to lend or donate money to the authority or to agree to take such action. The housing authority, when it has money available therefor, shall make reimbursements for all such loans made to it.

(3) PROJECT SUBMITTED TO PLANNING COMMISSION. Before any housing project of the character designated in section 66.40 (9) (a) be determined upon by the authority, or any real estate acquired or agreed to be acquired for such project or the construction of any of the buildings begins or any application made for federal loan or grant for such project, the extent thereof and the general features of the proposed layout indicating in a general way the proposed location of buildings and open spaces shall be submitted to the planning commission, if any, of the city or political subdivision in which the proposed project is located, for the advice of such planning commission upon the proposed location, extent, and general features of the layout.

(4) CO-OPERATION WITH CITIES, VILLAGES AND COUNTIES. For the purpose of cooperating with and assisting cities, villages and counties, a housing authority may exercise its powers in the territory within the boundaries of any city, village or county not included in the area in which such housing authority is then authorized to function, or in any designated portion of such territory, after the governing body of such city, village or county, as the case may be, adopts a resolution declaring that there is a need for the authority to function in such territory or in such designated portion thereof. If a housing authority has previously been authorized to exercise its powers in such territory or designated portion, such a resolution shall not be adopted unless such housing authority finds that ultimate economy would thereby be promoted, and such housing authority shall not initiate any housing project in such territory or designated portion after the adoption of such a resolution.

(6) CONTROLLING STATUTES. In so far as the provisions of sections 66.40 to 66.404 are inconsistent with the provisions of any other law, the provisions of sections 66.40 to 66.404 shall be controlling.

(7) SUPPLEMENTAL NATURE OF STATUTE. The powers conferred by sections 66.40 to 66.404 shall be in addition and supplemental to the powers conferred by any other law.

History: 1951 c. 261 s. 10.

See note to 67.04, citing Palfuss v. Milwaukee, 258 W 374, 46 NW (2d) 208.

Payment in lieu of taxes which may be made by local housing authority to city under 66.40 (22) and 66.404 (1) may not exceed the amount which would result from

the application of the city tax rate to the valuation of the property of the local housing authority. Local housing authority may not make payments in lieu of taxes to either the state or county. 39 Atty. Gen. 173.

66.405 Urban redevelopment. (1) SHORT TITLE. Sections 66.405 to 66.425 shall be known and may be cited and referred to as the "Urban Redevelopment Law."

(2) FINDING AND DECLARATION OF NECESSITY. It is declared that in the cities of the state substandard and insanitary areas exist which have resulted from inadequate planning, excessive land coverage, lack of proper light, air and open space, defective design and arrangement of buildings, lack of proper sanitary facilities, and the existence of buildings, which, by reason of age, obsolescence, inadequate or outmoded design, or physical deterioration have become economic or social liabilities, or both; that such conditions are prevalent in areas where substandard, insanitary, outworn or outmoded industrial, commercial or residential buildings prevail; that such conditions impair the economic value of large areas, infecting them with economic blight, and that such areas are characterized by depreciated values, impaired investments, and reduced capacity to pay taxes, that such conditions are chiefly in areas which are so subdivided into small parcels in divided ownerships and frequently with defective titles, that their assembly for purposes of clearance, replanning, rehabilitation and reconstruction is difficult and costly; that the existence of such conditions and the failure to clear, replan, rehabilitate or reconstruct these areas results in a loss of population by the areas and further deterioration, accompanied by added costs to the communities for creation of new public facilities and services elsewhere; that it is difficult and uneconomic for individual owners independently to undertake to remedy such conditions; that it is desirable to encourage owners of property or holders of claims thereon in such areas to join together and with outsiders in corporate groups for the purpose of the clearance, replanning, rehabilitation and reconstruction of such areas by joint action; that it is necessary to create, with proper safeguards, inducements and opportunities for the employment of private investment and equity capital in the clearance, replanning, rehabilitation and reconstruction of such areas; that such conditions require the employment of such capital on an investment rather than a speculative basis, allowing however, the widest latitude in the amortization of any indebtedness created thereby; that such conditions further require the acquisition at fair prices of adequate areas, the gradual clearance of such areas through demolition of existing obsolete, inadequate, unsafe and insanitary buildings and the redevelopment of such areas under proper supervision with appropriate planning, land use and construction policies; that the clearance, replanning, rehabilitation and reconstruction of such areas on a large scale basis are necessary for the public welfare; that the clearance, replanning, reconstruction and rehabilitation of such areas are public uses and purposes for which private property may be acquired; that such substandard and insanitary areas constitute a menace to the health, safety, morals, welfare and reasonable comfort of the citizens of the state; that such conditions require the aid of redevelopment corporations for the purpose of attaining the ends herein recited; that the protection and promotion of the health, safety, morals, welfare and reasonable comfort of the citizens of the state are matters of public concern; and the necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

(2m) DISCRIMINATION. Persons otherwise entitled to any right, benefit, facility or privilege under sections 66.405 to 66.425 shall not, with reference thereto, be denied them in any manner for any purpose nor be discriminated against because of race, color, creed or national origin.

(3) DEFINITIONS. The following terms, as used in sections 66.405 to 66.425, shall, unless a different intent clearly appears from the context, be construed as follows:

(a) "Area" shall mean a portion of a city which its planning commission has found or shall find to be substandard or insanitary, so that the clearance, replanning, rehabilitation or reconstruction thereof is necessary or advisable to effectuate the public purposes declared in sub. (2) and may include any buildings or improvements not in themselves substandard or insanitary, and any real property, whether improved or unimproved, the inclusion of which is deemed necessary for the effective clearance, replanning, reconstruction or rehabilitation of the area of which such buildings, improvements or real property form a part.

(b) "Assessed valuation" with respect to any local tax on any parcel of real property, shall mean the value of such parcel, including therein buildings and improvements as well as land, as assessed by those charged with assessing the same for such local tax.

(c) "City" shall mean any city in the state.

(d) "Development" shall mean a specific work, repair or improvement to put into effect a development plan and shall include the real property, buildings and improvements owned, constructed, managed or operated by a redevelopment corporation.

(e) "Development area" shall mean that portion of an area to which a development plan is applicable.

(f) "Development cost" shall mean the amount determined by the planning commission to be the actual cost of the development, or of the part thereof for which such determination is made, and shall include, among other costs, the reasonable costs of planning the development, including preliminary studies and surveys, neighborhood planning, and architectural and engineering services, legal and incorporation expense, the actual cost, if any, of alleviating hardship to families occupying dwelling accommodations in the development area where such hardship results from the execution of the development plan, the reasonable costs of financing the development, including carrying charges during construction, working capital in an amount not exceeding 5 per cent of development cost, the actual cost of the real property included in the development, the actual cost of demolition of existing structures, the actual cost of utilities, landscaping and roadways, the amount of special assessments subsequently paid, the actual cost of construction, equipment and furnishing of buildings and improvements, including architectural, engineering and builder's fees, the actual cost of reconstruction, rehabilitation, remodeling or initial repair of existing buildings and improvements, reasonable management costs until the development is ready for use, and the actual cost of improving that portion of the development area which is to remain as open space, together with such additions to development cost as shall equal the actual cost of additions to or changes in the development in accordance with the original development plan or after approved changes in or amendments thereto.

(g) "Development plan" shall mean a plan for the redevelopment of all or any part of an area, and shall include any amendments thereto approved in accordance with the requirements of s. 66.407.

(h) "Local governing body" shall mean the board of aldermen, common council, council, commission or other board or body vested by the charter of the city or other law with jurisdiction to adopt or enact ordinances or local laws.

(i) "Local taxation" and "local tax" shall include state, county, city, and school taxes, any special district taxes, and any other tax on real property, but shall not include assessments for benefit improvements.

(j) "Maximum assessed valuation" shall mean, with respect to any local tax on any parcel of real property, the last assessed valuation of such parcel appearing on the assessment roll prior to the transfer of such parcel to the redevelopment corporation.

(k) "Maximum exemption period" shall mean, with respect to any parcel of real property, the period commencing with the acquisition of such parcel by the redevelopment corporation, or the adoption of the resolution of approval required by s. 66.406, whichever is later in time, and lasting for such period, not exceeding 30 years from the date of completion, as certified to by the city department or body having jurisdiction over buildings and improvements, of the buildings or improvements required to be built on or made to such parcel by the development plan, as may be designated in the ordinance or local law, if any, adopted or enacted by the local governing body pursuant to s. 66.409 (1), but not in excess of the period of time during which such parcel of real property is owned by the redevelopment corporation.

(l) "Maximum dividend" shall mean, during the tax exemption period, disbursements to cover all interest and dividends not to exceed 6 per cent of the development cost.

(m) "Maximum local tax" shall mean the local tax on any parcel of real property which would have been payable on such parcel based on the maximum assessed valuation thereof as arrived at under subsection (3) (j).

(n) "Mortgage" shall mean a mortgage, trust indenture, deed of trust, building and loan contract or other instrument creating a lien on real property, and the indebtedness secured by each of them.

(o) "Neighborhood unit" shall mean a primarily residential district having the facilities necessary for well-rounded family living, such as schools, parks, playgrounds, parking areas and local shopping districts.

(p) "Planning commission" shall mean the official bureau, board, commission or agency of the city established under the general city law or under a general or special charter and authorized to prepare, adopt and amend or modify a master plan for the development of the city.

(q) "Real property" shall include lands, buildings, improvements, land under water, waterfront property, and any and all easements, franchises and hereditaments, corporeal or incorporeal, and every estate, interest, privilege, easement, franchise and right therein, or appurtenant thereto, legal or equitable, including rights-of-way, terms for years and liens, charges, or incumbrances by mortgage, judgment or otherwise.

(r) "Redevelopment" shall mean the clearance, replanning, reconstruction or rehabilitation of an area or part thereof, and the provision of such industrial, com-

mercial, residential or public structures or spaces as may be appropriate, including recreational and other facilities incidental or appurtenant thereto.

(s) "Redevelopment corporation" shall mean a corporation carrying out a redevelopment plan under sections 66.405 to 66.425.

66.406 Urban redevelopment; plans, approval. (1) A development plan shall contain such information as the planning commission shall, by rule or regulation require, including:

(a) A metes and bounds description of the development area;

(b) A statement of the real property in the development area fee title to which the city proposes to acquire and a statement of the interests to be acquired in any other real property by the city;

(c) A statement of the various stages, if more than one is intended, by which the development is proposed to be constructed or undertaken, and the time limit for the completion of each stage, together with a metes and bounds description of the real property to be included in each stage;

(d) A statement of the existing buildings or improvements in the development area, to be demolished immediately, if any;

(e) A statement of the existing buildings or improvements, in the development area not to be demolished immediately, if any, and the approximate period of time during which the demolition, if any, of each such building or improvement is to take place;

(f) A statement of the proposed improvements, if any, to each building not to be demolished immediately, any proposed repairs or alterations to such building, and the approximate period of time during which such improvements, repairs or alterations are to be made;

(g) A statement of the type, number and character of each new industrial, commercial, residential or other building or improvement to be erected or made; and a statement of the maximum limitations upon the bulk of such buildings or improvements to be permitted at various stages of the development plan;

(h) A statement of those portions, if any, of the development area which may be permitted or will be required to be left as open space, the use to which each such open space is to be put, the period of time each such open space will be required to remain an open space and the manner in which it will be improved and maintained, if at all;

(i) A statement of the proposed changes, if any, in zoning ordinances or maps, necessary or desirable for the development and its protection against blighting influences;

(j) A statement of the proposed changes, if any, in streets or street levels and any proposed street closings;

(k) A statement of the character of the existing dwelling accommodations, if any, in the development area, the approximate number of families residing therein, together with a schedule of the rentals being paid by them, and a schedule of the vacancies in such accommodations, together with the rental demanded therefor;

(l) A statement of the character, approximate number of units, approximate rentals and approximate date of availability of the proposed dwelling accommodations, if any, to be furnished during construction and upon completion of the development;

(m) A statement of the proposed method of financing the development, in sufficient detail to evidence the probability that the redevelopment corporation will be able to finance or arrange to finance the development;

(n) A statement of persons who it is proposed will be active in or associated with the management of the corporation during a period of at least one year from the date of the approval of the development plan.

(o) The development plan, and any application to the planning commission or local governing body for approval thereof, may contain in addition such other statements or material as may be deemed relevant by the proposer thereof, including suggestions for the clearance, replanning, reconstruction or rehabilitation of one or more areas which may be larger than the development area but which include it, and any other provisions for the redevelopment of such area or areas.

(2) No development shall be actually initiated until the adoption of a resolution of approval of the development plan therefor by both the planning commission and the local governing body.

(3) The planning commission may approve a development plan after a public hearing, and shall determine:

(a) That the area within which the development area is included is substandard or insanitary and that the redevelopment of the development area in accordance with the development plan is necessary or advisable to effectuate the public purposes declared in section 66.405 (2);

(b) That the development plan is in accord with the master plan, if any, of the city;

(c) That the development area is not less than 100,000 square feet in area, except that it may be smaller in area when undertaken in connection with a public improvement, but in any event of sufficient size to allow its redevelopment in an efficient and economically satisfactory manner and to contribute substantially to the improvement of the area in which the development is located;

(d) That the various stages, if any, by which the development is proposed to be constructed or undertaken, as stated in the development plan, are practicable and in the public interest;

(e) That the public facilities based on whether the development be a residential, industrial or commercial one are presently adequate or will be adequate at the time that the development is ready for use to serve the development area;

(f) That the proposed changes, if any, in the city map, in zoning ordinances or maps and in streets and street levels, or any proposed street closings, are necessary or desirable for the development and its protection against blighting influences and for the city as a whole;

(g) Upon data submitted by or on behalf of the redevelopment corporation, or upon data otherwise available to the planning commission, that there will be available for occupation by families, if any, then occupying dwelling accommodations in the development area legal accommodations at substantially similar rentals in the development area or elsewhere in a suitable location in the city, and that the carrying into effect of the development plan will not cause undue hardship to such families. The notice of the public hearing to be held by the planning commission prior to approval by it of the development plan shall contain separate statements to the effect that before the development plan is approved, the planning commission must make the determination required in this paragraph, and that if the development plan is approved, real property in the development area is subject to condemnation.

(h) Any such determination upon approval by the local governing body, shall be conclusive evidence of the facts so determined except upon proof of fraud or wilful misfeasance. In arriving at such determination, the planning commission shall consider only those elements of the development plan relevant to such determination under paragraphs (a) to (g) and to the type of development which is physically desirable for the development area concerned from a city planning viewpoint, and from a neighborhood unit viewpoint if the development plan provides that the development area is to be primarily residential.

(4) The local governing body, by a two-thirds vote of the members elect thereof, may approve a development plan, but no resolution of approval shall be adopted by it unless and until the planning commission shall first have approved thereof and there has been filed with the local governing body the development plan, the determination by the planning commission, and unless and until the local governing body shall determine:

(a) That the proposed method of financing the development is feasible and that it is probable that the redevelopment corporation will be able to finance or arrange to finance the development.

(b) That the persons who it is proposed will be active in or associated with the management of the redevelopment corporation during a period of at least one year from the date of the approval of the development plan have sufficient ability and experience to cause the development to be undertaken, consummated and managed in a satisfactory manner.

(c) Any such determination shall be conclusive evidence of the facts so determined except upon proof of fraud or wilful misfeasance. In considering whether or not a resolution of approval of the development plan shall be adopted, the local governing body shall consider those elements of the development plan relevant to such determination under paragraphs (a) and (b).

(5) The planning commission and the local governing body, by a two-thirds vote of the members elect thereof, may approve an amendment or amendments to a development plan, but no such amendment to a development plan which has theretofore been approved by the planning commission and the local governing body shall be approved unless and until an application therefor has been filed with the planning commission by the redevelopment corporation containing that part of the material required by subsection (1) which shall be relevant to the proposed amendment, and unless and until the planning commission and the local governing body shall make the determinations required by subsection (3) or (4) which shall be relevant to the proposed amendment.

(6) The planning commission and the local governing body may, for the guidance of prospective proponents of development plans, fix general standards to which a development plan shall conform. Variations from such standards may be allowed for the accomplishment of the purposes of sections 66.405 to 66.425. Such standards may contain

provisions more restrictive than those imposed by applicable planning, zoning, sanitary and building laws, ordinances and regulations.

(7) A local housing authority where such exists under sections 66.40 to 66.404 is hereby authorized to render such advisory services in connection with the preliminary surveys, studies and preparation of a development plan as may be requested by a city planning commission and charge fees for such services on the basis of actual cost.

66.407 Urban redevelopment; limitations on corporations. No redevelopment corporation shall:

(1) Undertake any clearance, reconstruction, improvement, alteration or construction in connection with any development until the approvals required by section 66.406 have been made;

(2) Change, alter, amend, add to or depart from the development plan until the planning commission and the local governing body have approved that portion of such change, alteration, amendment, addition or departure relevant to the determination required to be made by it as set forth in section 66.406;

(3) After a development has been commenced, sell, transfer or assign any real property in the development area without first obtaining the consent of the local governing body, which consent may be withheld only if the sale, transfer or assignment is made for the purpose of evading the provisions of sections 66.405 to 66.425;

(4) Pay as compensation for services to, or enter into contracts for the payment of compensation for services to, its officers or employes in an amount greater than the limit thereon contained in the development plan, or in default thereof, then in an amount greater than the reasonable value of the services performed or to be performed by such officers or employes;

(5) Lease an entire building or improvement in the development area to any person or corporation without obtaining the approval of the local governing body which may be withheld only if the lease is being made for the purpose of evading the provisions of sections 66.405 to 66.425;

(6) Mortgage any of its real property without obtaining the approval of the local governing body;

(7) Make any guarantee without obtaining the approval of the local governing body;

(8) Dissolve without obtaining the approval of the local governing body, which may be given upon such conditions as said body may deem necessary or appropriate to the protection of the interest of the city in the proceeds of the sale of the real property as to any property or work turned into the development by the city. Such approval is to be indorsed on the certificate of dissolution and such certificate is not to be filed in the department of state in the absence of such indorsement;

(9) Reorganize without obtaining the approval of the local governing body.

66.408 Urban redevelopment; regulation of corporations. (1) APPLICATION OF OTHER CORPORATION LAWS TO REDEVELOPMENT CORPORATIONS. The provisions of the general corporation law as presently in effect and as hereafter from time to time amended, shall apply to redevelopment corporations, except where such provisions are in conflict with the provisions of ss. 66.405 to 66.425.

(2) CONSIDERATION FOR ISSUANCE OF STOCK, BONDS OR INCOME DEBENTURES. No redevelopment corporation shall issue stocks, bonds or income debentures, except for money or property actually received for the use and lawful purposes of the corporation or services actually performed for the corporation.

(3) DETERMINATION OF DEVELOPMENT COST. (a) Upon the completion of a development a redevelopment corporation shall, or upon the completion of a principal part of a development a redevelopment corporation may, file with the planning commission an audited statement of the development cost thereof. Within a reasonable time after the filing of such statement, the planning commission shall determine the development cost applicable to the development or such portion thereof and shall issue to the redevelopment corporation a certificate stating the amount thereof as so determined.

(b) A redevelopment corporation may, at any time, whether prior or subsequent to the undertaking of any contract or expense, apply to the planning commission for a ruling as to whether any particular item of cost therein may be included in development cost when finally determined by the planning commission, and the amount thereof. The planning commission shall, within a reasonable time after such application, render a ruling thereon, and in the event that it shall be ruled that any item of cost may be included in development cost, the amount thereof as so determined shall be so included in development cost when finally determined.

(4) REGULATION OF REDEVELOPMENT CORPORATIONS. A redevelopment corporation shall:

(a) Furnish to the planning commission from time to time, as required by it, but with respect to regular reports not more often than once every 6 months, such financial information, statements, audited reports or other material as such commission shall require, each of which shall conform to such standards of accounting and financial procedure as the planning commission may by general regulation prescribe.

(b) Establish and maintain such depreciation and other reserves, surplus and other accounts as the planning commission may reasonably require, including a yearly reserve with respect to each parcel of real property held by the redevelopment corporation against the increase in local taxes after the expiration of the maximum exemption period, which shall be equal to 20 per cent of the difference between the maximum local tax on the real property of the redevelopment corporation and the local tax which would have been payable except for the tax exemption period provided for in section 66.409.

66.409 Urban redevelopment; exemption as to local taxation. (1) A local governing body is hereby authorized, by adopting or enacting an ordinance or local law, to exempt real property held by redevelopment corporations during a maximum exemption period, which shall not exceed 30 years, from any increase in any local tax over the maximum local tax. After the adoption or enactment of such an ordinance or local law, every parcel of real property held by the redevelopment corporation in the city shall be exempt during the maximum exemption period, from that portion of each and every local tax in excess of the maximum local tax. If, during the last year of the maximum exemption period, such exemption is in existence on the day such local tax, or instalment thereof, becomes a lien on such parcel of real property, such exemption shall extend for the full tax year for such local tax and shall not be apportioned because of the expiration of the maximum exemption period during such tax year.

(2) For the purpose of fixing the date of commencement of the maximum exemption period for a group of parcels of real property in a development area, a city is hereby authorized, with the approval of its local governing body, except that if there is a board of estimate in the city, then with the approval of the board of estimate, to contract with a redevelopment corporation to place in one or more groups the various parcels of real property therein. Such a contract may provide that all of the parcels in each group may be deemed to have had a common stated date of acquisition by the redevelopment corporation, regardless of the actual date of acquisition of each parcel contained therein. Such agreed date of acquisition shall thereupon serve as a basis for computing the maximum exemption period for each parcel of real property in the group. Such agreed date of acquisition shall not be later than the date of the actual acquisition of one or more parcels of real property in the group. After the making of any such contract, all of the parcels of real property in any such group shall be treated as a unit for the purposes of the assessment and collection of each local tax, and the maximum exemption period so computed shall be binding with respect to each local tax.

66.41 Urban redevelopment; limitation on payment of interest and dividends. (1) No redevelopment corporation shall pay any interest on its income debentures or dividends on its stock during any dividend year, unless there shall exist at the time of any such payment no default under any amortization requirements with respect to its indebtedness.

(2) No redevelopment corporation shall pay or declare as interest on its income debentures and as dividends on its stock during any dividend year during any portion of which there shall exist pursuant to section 66.409 any exemption from local taxation on any of its real property, an amount which in the aggregate is in excess of the maximum dividend.

66.411 Urban redevelopment; enforcement of duties. Whenever a redevelopment corporation shall not have substantially complied with the development plan within the time limits for the completion of each stage thereof as therein stated, reasonable delays caused by unforeseen difficulties excepted, or shall do, permit to be done or fail or omit to do anything contrary to or required of it, as the case may be, by sections 66.405 to 66.425, or shall be about so to do, permit to be done or fail or omit to have done, as the case may be, then any such fact may be certified by the planning commission to the city attorney of the city, who may thereupon commence a proceeding in the circuit court of the county in which the city is in whole or in part situated in the name of the city for the purpose of having such action, failure or omission, or threatened action, failure or omission, established by order of the court or stopped, prevented or otherwise rectified by mandamus, injunction or otherwise. Such proceeding shall be commenced by a petition to the circuit court alleging the violation complained of and praying for appropriate relief. It shall

thereupon be the duty of the court to specify the time, not exceeding 20 days after service of a copy of the petition, within which the redevelopment corporation complained of must answer the petition. The court, shall, immediately after a default in answering or after answer, as the case may be, inquire into the facts and circumstances in such manner as the court shall direct without other or formal proceedings, and without respect to any technical requirements. Such other persons or corporations as it shall seem to the court necessary or proper to join as parties in order to make its order or judgment effective may be joined as parties. The final judgment or order in any such action or proceeding shall dismiss the action or proceeding or establish the failure complained of or direct that a mandamus order, or an injunction, or both, issue, or grant such other relief as the court may deem appropriate.

66.412 Urban redevelopment; transfer of land. Notwithstanding any requirement of law to the contrary or the absence of direct provision therefor in the instrument under which a fiduciary is acting, every executor, administrator, trustee, guardian or other person, holding trust funds or acting in a fiduciary capacity, unless the instrument under which such fiduciary is acting expressly forbids, the state, its subdivisions, cities, all other public bodies, all public officers, corporations organized under or subject to the provisions of the banking law, the commissioner of banks as conservator, liquidator or rehabilitator of any such person, partnership or corporation, persons, partnerships and corporations organized under or subject to the provisions of the banking law, the commissioner of insurance as conservator, liquidator or rehabilitator of any such person, partnership or corporation, any of which owns or holds any real property within a development area, may grant, sell, lease or otherwise transfer any such real property to a redevelopment corporation, and receive and hold any cash, stocks, income debentures, mortgages, or other securities or obligations, secured or unsecured, exchanged therefor by such redevelopment corporation, and may execute such instruments and do such acts as may be deemed necessary or desirable by them or it and by the redevelopment corporation in connection with the development and the development plan.

66.413 Urban redevelopment; acquisition of land. (1) A redevelopment corporation may whether before or after the development plan has been approved, acquire real property or secure options in its own name or in the name of nominees to acquire real property, by gift, grant, lease, purchase or otherwise.

(2) A city may, upon request by the redevelopment corporation, acquire, or obligate itself to acquire, for such redevelopment corporation any real property included in such certificate of approval of condemnation, by gift, grant, lease, purchase, condemnation, or otherwise, according to the provisions of any appropriate general, special or local law applicable to the acquisition of real property by the city. Real property acquired by a city for a redevelopment corporation shall be conveyed by such city to the redevelopment corporation upon payment to the city of all sums expended or required to be expended by the city in the acquisition of such real property, or leased by such city to such corporation, all upon such terms as may be agreed upon between the city and the redevelopment corporation to carry out the purposes of sections 66.405 to 66.425.

(3) The provisions of sections 66.405 to 66.425 with respect to the condemnation of real property by a city for a redevelopment corporation shall prevail over the provisions of any other general, special or local law.

66.414 Urban redevelopment; condemnation for. (1) Condemnation proceedings for a redevelopment corporation shall be initiated by a petition to the city to institute proceedings to acquire for the redevelopment corporation any real property in the development area. Such petition shall be granted or rejected by the local governing body, and the resolution or resolutions granting such petition shall contain a requirement that the redevelopment corporation shall pay to the city all sums expended or required to be expended by the city in the acquisition of such real property, or for any real property to be conveyed to the corporation by the city in connection with the plan, and the time of payment and manner of securing payment thereof, and may require that the city shall receive, before proceeding with the acquisition of such real property, such assurances as to payment or reimbursement by the redevelopment corporation, or otherwise, as the city may deem advisable. Upon the passage of a resolution or resolutions by the local governing body granting the petition, the redevelopment corporation shall cause to be made 3 copies of surveys or maps of the real property described in the petition, one of which shall be filed in the office of the redevelopment corporation, one in the office of the city attorney of the city, and one in the office in which instruments affecting real property in the county are recorded. The filing of such copies of surveys or maps shall constitute the acceptance by the redevelopment corporation of the terms and conditions contained in such resolution or resolutions. The city may conduct any condemnation proceedings either

under chapter 32 or at its option, under other laws applicable to such city. When title to the real property shall have vested in the city, it shall convey or lease the same, with any other real property to be conveyed or leased to the corporation by the city in connection with said plan, to the redevelopment corporation upon payment by the redevelopment corporation of the sums and the giving of the security required by the resolution granting the petition.

(2) The following provisions shall apply to any proceedings for the assessment of compensation and damages for real property in a development area taken or to be taken by condemnation for a redevelopment corporation:

(a) For the purpose of sections 66.405 to 66.425, the award of compensation shall not be increased by reason of any increase in the value of the real property caused by the assembly, clearance or reconstruction, or proposed assembly, clearance or reconstruction for the purposes of sections 66.405 to 66.425 of the real property in the development area. No allowance shall be made for improvements begun on real property after notice to the owner of such property of the institution of the proceedings to condemn such property.

(b) Evidence shall be admissible bearing upon the insanitary, unsafe or substandard condition of the premises, or the illegal use thereof, or the enhancement of rentals from such illegal use, and such evidence may be considered in fixing the compensation to be paid, notwithstanding that no steps to remedy or abate such conditions have been taken by the department or officers having jurisdiction. If a violation order is on file against the premises in any such department, it shall constitute prima facie evidence of the existence of the condition specified in such order.

(c) If any of the real property in the development area which is to be acquired by condemnation has, prior to such acquisition, been devoted to another public use, it may nevertheless be acquired provided that no real property belonging to the city or to any other governmental body, or agency or instrumentality thereof, corporate or otherwise, may be acquired without its consent. No real property belonging to a public utility corporation may be acquired without the approval of the commission or other officer or tribunal having regulatory power over such corporation.

(d) Upon the trial a statement, affidavit, deposition, report, transcript of testimony in an action or proceeding, or appraisal made or given by any owner or prior owner of the premises taken, or by any person on his behalf, to any court, governmental bureau, department or agency respecting the value of the real property for tax purposes, shall be relevant, material and competent upon the issue of value of damage and shall be admissible on direct examination.

(e) The term "owner", as used in this section, shall include a person having an estate, interest or easement in the real property to be acquired or a lien, charge or incumbrance thereon.

66.415 Urban redevelopment; continued use of land by prior owner. (1) When title to real property has vested in a redevelopment corporation or city by gift, grant, devise, purchase or in condemnation proceedings or otherwise, the redevelopment corporation or city, as the case may be, may agree with the previous owners of such property, or any tenants continuing to occupy or use it, or any other persons who may occupy or use or seek to occupy or use such property, that such former owner, tenant or other persons may occupy or use such property upon the payment of a fixed sum of money for a definite term or upon the payment periodically of an agreed sum of money. Such occupation or use shall not be construed as a tenancy from month to month, nor require the giving of notice by the redevelopment corporation or the city, as the case may be, for the termination of such occupation or use or the right to such occupation or use, but immediately upon the expiration of the term for which payment has been made the redevelopment corporation or city, as the case may be, shall be entitled to possession of the real property and may maintain summary proceedings, obtain a writ of assistance, and shall be entitled to such other remedy as may be provided by law for obtaining immediate possession thereof. A former owner, tenant or other person occupying or using such property shall not be required to give notice to the redevelopment corporation or city, as the case may be, at the expiration of the term for which he has made payment for such occupation or use, as a condition to his cessation of occupation or use and termination of liability therefor.

(2) In the event that a city has acquired real property for a redevelopment corporation, the city shall, in transferring title to the redevelopment corporation, deduct from the consideration or other moneys which the redevelopment corporation has become obligated to pay to the city for such purpose, and credit the redevelopment corporation with, the amounts received by the city as payment for temporary occupation and use of the real property by a former owner, tenant, or other person, as in this section provided, less the

cost and expense incurred by the city for the maintenance and operation of such real property.

66.416 Urban redevelopment; borrowing; mortgages. (1) Any redevelopment corporation may borrow funds and secure the repayment thereof by mortgage. Every such mortgage shall contain reasonable amortization provisions and shall be a lien upon no other real property except that forming the whole or a part of a single development area.

(2) Certificates, bonds and notes, or part interests therein, or any part of an issue thereof, which are issued by a redevelopment corporation and secured by a first mortgage on the real property of the redevelopment corporation, or any part thereof, shall be securities in which all the following persons, partnerships or corporations and public bodies or public officers may legally invest the funds within their control, provided that the principal amount thereof shall not exceed the limits, if any, imposed by law for such investments by the person, partnership, corporation, public body or public officer making the same: Every executor, administrator, trustee, guardian, committee or other person or corporation holding trust funds or acting in a fiduciary capacity; the state, its subdivisions, cities, all other public bodies, all public officers; persons, partnerships and corporations organized under or subject to the provisions of the banking law (including savings banks, savings and loan associations, trust companies, bankers and private banking corporations); the commissioner of banks as conservator, liquidator or rehabilitator of any such person, partnership or corporation; persons, partnerships or corporations organized under or subject to the provisions of the insurance law; and the commissioner of insurance as conservator, liquidator or rehabilitator of any such person, partnership or corporation.

(3) Any mortgage on the real property in a development area, or any part thereof, may create a first lien, or a second or other junior lien, upon such real property.

(4) The limits as to principal amount secured by mortgage referred to in subsection (2) shall not apply to certificates, bonds and notes, or part interests therein, or any part of an issue thereof, which are secured by first mortgage on real property in a development area, or any part thereof, which the federal housing administrator has insured or has made a commitment to insure under the national housing act. Any such person, partnership, corporation, public body or public officer may receive and hold any debentures, certificates or other instruments issued or delivered by the federal housing administrator, pursuant to the national housing act, in compliance with the contract of insurance of a mortgage on real property in the development area, or any part thereof.

66.417 Urban redevelopment; sale or lease of land. (1) The local governing body may by resolution determine that real property, title to which is held by the city, specified and described in such resolution, is not required for use by the city and may authorize the city to sell or lease such real property to a redevelopment corporation; provided, that the title of the city to such real property be not declared inalienable by charter of the city, or other similar law or instrument.

(2) Notwithstanding the provisions of any general, special or local law or ordinance, such sale or lease may be made without appraisal, public notice or public bidding for such price or rental and upon such terms (and, in case of a lease, for such term not exceeding 60 years with a right of renewal upon such terms) as may be agreed upon between the city and the redevelopment corporation to carry out the purposes of sections 66.405 to 66.425.

(3) Before any sale or lease to a redevelopment corporation shall be authorized, a public hearing shall be held by the local governing body to consider the proposed sale or lease.

(4) Notice of such hearing shall be published at least 10 days before the date set for the hearing in such publication and in such manner as may be designated by the local governing body.

(5) The deed or lease of such real property shall be executed in the same manner as a deed or lease by the city of other real property owned by it and may contain appropriate conditions and provisions to enable the city to reenter the real property in the event of a violation by the redevelopment corporation of any of the provisions of sections 66.405 to 66.425 relating to such redevelopment corporation or of the conditions or provisions of such deed or lease.

(6) A redevelopment corporation purchasing or leasing real property from a city shall not, without the written approval of the city, use such real property for any purpose except in connection with its development. The deed shall contain a condition that the redevelopment corporation will devote the real property granted only for the purposes of its development subject to the restrictions of sections 66.405 to 66.425, for breach of which the city shall have the right to reenter and repossess itself of the real property.

66.418 Urban redevelopment; city lease to, terms. If real property of a city be leased to a redevelopment corporation:

(1) The lease may provide that all improvements shall be the property of the lessor;

(2) The lessor may grant to the redevelopment corporation the right to mortgage the fee of such property and thus enable the redevelopment corporation to give as security for its notes or bonds a first lien upon the land and improvements;

(3) The execution of a lease shall not impose upon the lessor any liability or obligation in connection with or arising out of the financing, construction, management or operation of a development involving the land so leased. The lessor shall not, by executing such lease, incur any obligation or liability with respect to such leased premises other than may devolve upon the lessor with respect to premises not owned by it. The lessor, by consenting to the execution by a redevelopment corporation of a mortgage upon the leased land, shall not thereby assume, and such consent shall not be construed as imposing upon the lessor, any liability upon the note or bond secured by the mortgage;

(4) The lease may reserve such easements or other rights in connection with the real property as may be deemed necessary or desirable for the future planning and development of the city and the extension of public facilities therein (including also the construction of subways and conduits, the widening and change of grade of streets); and it may contain such other provisions for the protection of the parties as are not inconsistent with the provisions of sections 66.405 to 66.425.

66.419 Urban redevelopment; aids by city. In addition to the powers conferred upon the city by other provisions of sections 66.405 to 66.425, the local governing body is empowered to appropriate moneys for the purpose of and to borrow or to accept grants from the federal or state governments or any agency thereof for and in aid of the acquisition of any lands required to carry out the plan or the purposes mentioned in section 66.42; and to these ends, to enter into such contracts, mortgages, trust indentures or other agreements as the federal government may require.

66.42 Urban redevelopment; city improvements. For the purpose of aiding and co-operating in the planning, undertaking, construction or operation of any such plan located within the area in which it is authorized to act, any local governing body may upon such terms, with or without consideration, as it may determine:

(1) Cause parks, playgrounds, recreational, community, educational, water, sewer or drainage facilities, or any other works which it is otherwise empowered to undertake, to be furnished adjacent to or in connection with housing projects;

(2) Furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads, roadways, alleys, sidewalks or other places which it is otherwise empowered to undertake.

66.421 Urban redevelopment; appropriations. The city is authorized to appropriate moneys for the purpose of making plans and surveys to carry out such redevelopment, and for any purpose required to carry out the intention of sections 66.405 to 66.425.

66.422 Urban redevelopment; construction of statute. Sections 66.405 to 66.425 shall be construed liberally to effectuate the purposes hereof, and the enumeration therein of specific powers shall not operate to restrict the meaning of any general grant of power contained in sections 66.405 to 66.425 or to exclude other powers comprehended in such general grant.

66.424 Urban redevelopment; conflict of laws. In so far as the provisions of sections 66.405 to 66.425 are inconsistent with the provisions of any other law, the provisions of these sections shall be controlling.

66.425 Urban redevelopment; supplemental powers. The powers conferred by sections 66.405 to 66.425 shall be in addition and supplemental to the powers conferred by any other law.

66.43 Blighted area law. (1) SHORT TITLE. This section shall be known and may be cited and referred to as the "blighted area law."

(2) FINDINGS AND DECLARATION OF NECESSITY. It is hereby found and declared that there have existed and continue to exist in cities within the state, substandard, insanitary, deteriorated, slum and blighted areas which constitute a serious and growing menace, injurious and inimical to the public health, safety, morals and welfare of the residents of the state; that the existence of such areas contributes substantially and increasingly to the spread of disease and crime (necessitating excessive and disproportionate expenditures of public funds for the preservation of the public health and safety, for crime prevention, correction, prosecution, punishment, and the treatment of juvenile delinquency and for the maintenance of adequate police, fire and accident protection, and other public

services and facilities), constitutes an economic and social liability, substantially impairs or arrests the sound growth of cities, and retards the provision of housing accommodations; that this menace is beyond remedy and control solely by regulatory process in the exercise of the police power and cannot be dealt with effectively by the ordinary operations of private enterprise without the aids herein provided; that the acquisition of property for the purpose of eliminating substandard, insanitary, deteriorated, slum or blighted conditions thereon or preventing recurrence of such conditions in the area, the removal of structures and improvement of sites, the disposition of the property for redevelopment incidental to the foregoing, and any assistance which may be given by cities or any other public bodies in connection therewith, are public uses and purposes for which public money may be expended and the power of eminent domain exercised; and that the necessity in the public interest for the provisions herein enacted is hereby declared as a matter of legislative determination. Nothing herein contained shall be deemed to contravene, repeal or rescind the finding and declaration of necessity heretofore set forth in s. 66.43 (2) prior to the recreation thereof on July 10, 1953.

(2m) DISCRIMINATION. Persons otherwise entitled to any right, benefit, facility or privilege under this section shall not, with reference thereto, be denied them in any manner for any purpose nor be discriminated against because of race, color, creed or national origin.

(3) DEFINITIONS. The following terms whenever used or referred to in this section shall, for the purposes of this section and unless a different intent clearly appears from the context, be construed as follows:

(a) "Local legislative body" means the board of aldermen, common council, council, commission or other board or body vested by the charter of the city or other law with jurisdiction to enact ordinances or local laws.

(b) "City" means any city in the state.

(c) "Housing" includes housing, dwelling, habitation and residence.

(d) "Land" includes bare or vacant land, or the land under buildings, structures or other improvements, also water and land under water. When employed in connection with "use", as for instance, "use of land" or "land use", "land" also includes buildings, structures and improvements existing or to be placed thereon.

(e) "Lessee" includes the successors or assigns and successors in title of the lessee.

(f) "Planning commission" means the board, commission or agency of the city authorized to prepare, adopt or amend or modify a master plan of the city.

(g) "Project area" means a blighted area (as defined in this section), or portion thereof, of such extent and location as adopted by the planning commission and approved by the local legislative body as an appropriate unit of redevelopment planning for a redevelopment project, separate from the redevelopment projects in other parts of the city. In the provisions of this section relating to leasing or sale by the city, for abbreviation "project area" is used for the remainder of the project area after taking out those pieces of property which shall have been or are to be transferred for public uses.

(h) "Purchaser" includes the successors or assigns and successors in title of the purchaser.

(i) "Real property" includes land; also includes land together with the buildings, structures, fixtures and other improvements thereon; also includes liens, estates, easements and other interests therein; and also includes restrictions or limitations upon the use of land, buildings or structures, other than those imposed by exercise of the police power.

(j) 1. "Blighted area" means any area (including a slum area) in which a majority of the structures are residential (or in which there is a predominance of buildings or improvements, whether residential of nonresidential), and which, by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency and crime, and is detrimental to the public health, safety, morals or welfare.

2. "Redevelopment project" means any work or undertaking to acquire blighted areas or portions thereof, and lands, structures, or improvements, the acquisition of which is necessary or incidental to the proper clearance or redevelopment of such areas or to the prevention of the spread or recurrence of slum conditions or conditions of blight in such areas; to clear any such areas by demolition or removal of existing buildings, structures, streets, utilities, or other improvements thereon and to install, construct, or reconstruct streets, utilities, and site improvements essential to the preparation of sites for uses in accordance with a redevelopment plan; or to sell, lease or otherwise make available land

in such areas for residential, recreational, commercial, industrial or other use or for public use, or to retain such land for public use, in accordance with a redevelopment plan. The term "redevelopment project" may also include the preparation of a redevelopment plan, the planning, surveying, and other work incident to a redevelopment project, and the preparation of all plans and arrangements for carrying out a redevelopment project. "Redevelopment plan" means a plan for the acquisition, clearance, reconstruction, rehabilitation or future use of a redevelopment project area.

(k) "Redevelopment company" means a private or public corporation or body corporate (including a public housing authority) carrying out a plan under this section.

(l) "Rentals" means rents specified in a lease to be paid by the lessee to the city.

(m) "Public body" means the state or any city, county, town, village, board, commission, authority, district or any other subdivision or public body of the state.

(4) POWER OF CITIES. (a) Every city is hereby granted (in addition to its other powers) all powers necessary or convenient to carry out and effectuate the purposes and provisions of this section, including the following powers in addition to others herein granted:

1. To prepare or cause to be prepared redevelopment plans and to undertake and carry out redevelopment projects within its corporate limits.

2. To enter into any contracts determined by the local legislative body to be necessary to effectuate the purposes of this section.

3. Within its boundaries, to acquire by purchase, eminent domain or otherwise, any real or personal property or any interest therein, together with any improvements thereon, necessary or incidental to a redevelopment project; to hold, improve, clear or prepare for redevelopment any such property; to sell, lease, subdivide, retain for its own use, mortgage, or otherwise incumber or dispose of any such property or any interest therein; to enter into contracts with redevelopers of property containing covenants, restrictions, and conditions regarding the use of such property in accordance with a redevelopment plan and such other covenants, restrictions and conditions as it may deem necessary to prevent a recurrence of blighted areas or to effectuate the purposes of this section; to make any of such covenants, restrictions, conditions or covenants running with the land, and to provide appropriate remedies for any breach thereof.

4. To borrow money and issue bonds, and to apply for and accept advances, loans, grants, contributions, and any other form of financial assistance from the federal, state or county government, or other public body or from any sources, for the purpose of this section; to give such security as may be required, and to enter into and carry out contracts in connection therewith.

(b) Condemnation proceedings for the acquisition of real property necessary or incidental to a redevelopment project shall be conducted in accordance with ch. 32 or any other laws applicable to the city.

(c) Notwithstanding any other provision of law, the local legislative body may designate the housing authority of the city, as the agent of the city, to do all acts which would otherwise be performed by the planning commission under this section; and the housing authority is hereby empowered to perform such acts; except, the development of a general plan of the city, which function shall be reserved to the planning commission.

(5) GENERAL AND PROJECT AREA REDEVELOPMENT PLANS. (a) The planning commission is hereby directed to make and, from time to time, develop a comprehensive or general plan of the city, including the appropriate maps, charts, tables and descriptive, interpretive and analytical matter, which plan is intended to serve as a general framework or guide of development within which the various area and redevelopment projects under this section may be more precisely planned and calculated, and which comprehensive or general plan shall include at least a land use plan which designates the proposed general distribution and general locations and extents of the uses of the land for housing, business, industry, recreation, education, public buildings, public reservations and other general categories of public and private uses of the land.

(b) For the exercise of the powers granted and for the acquisition and disposition of real property for the redevelopment of a project area, the following steps and plans shall be requisite, namely:

1. Designation by the planning commission of the boundaries of the project area proposed by it for redevelopment, submission of such boundaries to the local legislative body and the adoption of a resolution by said local legislative body declaring such area to be a blighted area in need of redevelopment.

2. Adoption by the planning commission and approval by the local legislative body of the redevelopment plan of the project area. Such redevelopment plan shall conform to the general plan of the city and shall be sufficiently complete to indicate its relationship to definite local objectives as to appropriate land uses, improved traffic, public trans-

portation, public utilities, recreational and community facilities, and other public improvements in the project area, and shall include, without being limited to, a statement of the boundaries of the project area; a map showing existing uses and conditions of real property therein; a land use plan showing proposed uses of the area; information showing the standards of population density, land coverage, and building intensity in the area after redevelopment; a statement of proposed changes, if any, in zoning ordinances or maps and building codes and ordinances; a statement as to the kind and number of site improvements and additional public utilities which will be required to support the new land uses in the area after redevelopment; and a statement of a feasible method proposed for the relocation of families to be displaced from the project area.

3. Approval of a redevelopment plan of a project area by the local legislative body may be given only after a public hearing conducted by it, and a finding by it that said plan is feasible and in conformity with the general plan of the city. Notice of such hearing, describing the time, date, place, and purpose of the hearing and generally identifying the project area, shall be given by publication for 2 consecutive weeks in a newspaper having general circulation in the city, the last publication to be at least 10 days prior to the date set for the hearing. All interested parties shall be afforded a reasonable opportunity at the hearing to express their views respecting the proposed plan, but the hearing shall be only for the purpose of assisting the local legislative body in making its determination.

(c) In relation to the location and extent of public works and utilities, public buildings and other public uses in the general plan or in a project area plan, the planning commission is directed to confer with such other public officials, boards, authorities and agencies under whose administrative jurisdictions such uses respectively fall.

(d) After a project area redevelopment plan of a project area shall have been adopted by the planning commission and approved by the local legislative body, the planning commission may at any time certify said plan to the local legislative body, whereupon said body shall proceed to exercise the powers granted to it in this section for the acquisition and assembly of the real property of the area. Following such certification, no new construction shall be authorized by any agencies, boards or commissions of the city, in such area, unless as authorized by the local legislative body including substantial remodeling or conversion or rebuilding, enlargement or extension of major structural improvements on existing buildings, but not including ordinary maintenance or remodelling or changes necessary to continue the occupancy.

(6) TRANSFER, LEASE OR SALE OF REAL PROPERTY IN PROJECT AREAS FOR PUBLIC AND PRIVATE USES. (a) After the real property in the project area shall have been assembled, the city shall have power to lease or sell all or any part of said real property (including streets or parts thereof to be closed or vacated in accordance with the plan) to a redevelopment company or to an individual or a partnership for use in accordance with the redevelopment plan. Such real property shall be leased or sold at its fair value for uses in accordance with the redevelopment plan notwithstanding such value may be less than the cost of acquiring and preparing such property for redevelopment. In determining such fair value, a city shall take into account and give consideration to the uses and purposes required by the plan; the restrictions upon and covenants, conditions and obligations assumed by the purchaser or lessee, the objectives of the redevelopment plan for the prevention of the recurrence of slum or blighted areas; and such other matters as the city shall deem appropriate.

(b) Any such lease or sale may be made without public bidding, but only after a public hearing, after 10 days' public notice, by the planning commission upon the proposed lease or sale and the provisions thereof.

(c) The terms of such lease or sale shall be fixed by the planning commission and approved by the local legislative body and the instrument of lease may provide for renewals upon reappraisals and with rentals and other provisions adjusted to such reappraisals. Every such lease or sale shall provide that the lessee or purchaser shall carry out or cause to be carried out the approved project area redevelopment plan or approved modifications thereof and that no use shall be made of any land or real property included in the lease or sale nor any building or structure erected thereon which does not conform to such approved plan or approved modifications thereof. In the instrument or instruments of lease or sale, the planning commission, with the approval of the local legislative body, may include such other terms, conditions and provisions as in its judgment will provide reasonable assurance of the priority of the obligations of the lease or sale and of conformance to the plan over any other obligations of the lessee or purchaser and also assurance of the financial and legal ability of the lessee or purchaser to carry out and conform to the plan and the terms and conditions of the lease or sale; also, such terms, conditions and specifications concerning buildings, improvements, subleases or tenancy,

maintenance and management and any other matters as the planning commission, with the approval of the local legislative body, may impose or approve, including provisions whereby the obligations to carry out and conform to the project area plan shall run with the land. In the event that maximum rentals to be charged to tenants of housing be specified, provision may be made for periodic reconsideration of such rental bases.

(d) Until the planning commission certifies, with the approval of the local legislative body, that all building constructions and other physical improvements specified to be done and made by the purchaser of the area have been completed, the purchaser shall have no power to convey the area, or any part thereof, without the consent of the planning commission and the local legislative body, and no such consent shall be given unless the grantee of the purchaser obligates itself or himself, by written instrument, to the city to carry out that portion of the redevelopment plan which falls within the boundaries of the conveyed property and also that the grantee, his or its heirs, representatives, successors and assigns, shall have no right or power to convey, lease or let the conveyed property or any part thereof, or erect or use any building or structure erected thereon free from obligation and requirement to conform to the approved project area redevelopment plan or approved modifications thereof.

(f) The planning commission may, with the approval of the local legislative body, cause to have demolished any existing structure or clear the area of any part thereof, or may specify the demolition and clearance to be performed by a lessee or purchaser and the time schedule for same. The planning commission, with the approval of the local legislative body, shall specify the time schedule and conditions for the construction of buildings and other improvements.

(g) In order to facilitate the lease or sale of a project area or, in the event that the lease or sale is of parts of an area, the city shall have the power to include in the cost payable by it the cost of the construction of local streets and sidewalks within the area or of grading and other local public surface or subsurface facilities necessary for shaping the area as the site of the redevelopment of the area. The city may arrange with the appropriate federal, state or county agencies for the reimbursement of such outlays from funds or assessments raised or levied for such purposes.

(7) HOUSING FOR DISPLACED FAMILIES. In connection with every redevelopment plan the housing authority shall formulate a feasible method for the temporary relocation of persons living in areas that are designated for clearance and redevelopment. In addition the housing authority and the local legislative body will assure that decent, safe and sanitary dwellings substantially equal in number to the number of substandard dwellings to be removed in carrying out the redevelopment are available, or will be provided, at rents or prices within the financial reach of the income groups displaced.

(8) USE-VALUE APPRAISALS. After the city shall have assembled and acquired the real property of the project area, it shall, as an aid to it in determining the rentals and other terms upon which it will lease or the price at which it will sell the area or parts thereof, place a use value upon each piece or tract of land within the area which, in accordance with the plan, is to be used for private uses or for low-rent housing, such use value to be based on the planned use; and, for the purposes of this use valuation, it shall cause a use valuation appraisal to be made by the local tax commissioner or assessor; but nothing contained in this section shall be construed as requiring the city to base its rentals or selling prices upon such appraisal.

(9) PROTECTION OF REDEVELOPMENT PLAN. (a) Previous to the execution and delivery by the city of a lease or conveyance to a redevelopment company, or previous to the consent by the city to an assignment or conveyance by a lessee or purchaser to a redevelopment company, the articles or certificate of incorporation or association or charter or other basic instrument of such company shall contain provisions so defining, limiting and regulating the exercise of the powers of the company that neither the company nor its stockholders, its officers, its directors, its members, its beneficiaries, its bondholders or other creditors or other persons shall have any power to amend or to effect the amendment of the terms and conditions of the lease or the terms and conditions of the sale without the consent of the planning commission, together with the approval of the local legislative body, or, in relation to the project area development plan, without the approval of any proposed modification in accordance with the provisions of subsection (10); and no action of stockholders, officers, directors, bondholders, creditors, partners or other persons, nor any reorganization, dissolution, receivership, consolidation, foreclosure or any other change in the status or obligation of any redevelopment company, partnership or individual in any litigation or proceeding in any federal or other court shall effect any release or any impairment or modification of the lease or terms of sale or of the project area redevelopment plan unless such consent or approval be obtained.

(b) Redevelopment corporations may be organized under the general corporation law of the state and shall have the power to be a redevelopment company under this section, and to acquire and hold real property for the purposes set forth in this section, and to exercise all other powers granted to redevelopment companies in this section, subject to the provisions, limitations and obligations herein set forth.

(c) A redevelopment company, individual or partnership to which any project area or part thereof is leased or sold under this section shall keep books of account of its operations of or transactions relating to such area or part entirely separate and distinct from its or his accounts of and for any other project area or part thereof or any other real property or enterprise; and no lien or other interest shall be placed upon any real property in said area to secure any indebtedness or obligation of the redevelopment company, individual, or partnership incurred for or in relation to any property or enterprise outside of said area.

(10) MODIFICATION OF DEVELOPMENT PLANS. An approved project area redevelopment plan may be modified at any time or times after the lease or sale of the area or part thereof provided that the modification be consented to by the lessee or purchaser, and that the proposed modification be adopted by the planning commission and then submitted to the local legislative body and approved by it. Before approval, the local legislative body shall hold a public hearing on the proposed modification, notice of the time and place of which shall be given by mail sent at least 10 days prior to the hearing to the then owners of the real properties in the project area and of the real properties immediately adjoining or across the street from the project area. The local legislative body may refer back to the planning commission any project area redevelopment plan, project area boundaries or modification submitted to it, together with its recommendation for changes in such plan, boundaries or modification and, if such recommended changes be adopted by the planning commission and in turn formally approved by the local legislative body, the plan, boundaries or modification as thus changed shall be and become the approved plan, boundaries or modification.

(11) LIMITATION UPON TAX EXEMPTION. Nothing contained in this section shall be construed to authorize or require the exemption of any real property from taxation, except real property sold, leased or granted to and acquired by a public housing authority. No real property acquired pursuant to this section by a private redevelopment company, individual or partnership either by lease or purchase shall be exempt from taxation by reason of such acquisition.

(12) FINANCIAL ASSISTANCE. The city may accept grants or other financial assistance from the federal, state and county governments or from other sources to carry out the purposes of this section, and may do all things necessary to comply with the conditions attached to such grants or loans.

(13) CO-OPERATION AND USE OF CITY FUNDS. (a) To assist any redevelopment project located in the area in which it is authorized to act, any public body may, upon such terms as it may determine: Furnish services or facilities, provide property, lend or contribute funds, and perform any other action of a character which it is authorized to perform for other purposes.

(b) Every city may appropriate and use its general funds to carry out the purposes of this section and to obtain such funds may, in addition to other powers set forth in this section, incur indebtedness, and issue bonds in such amount or amounts as the local legislative body determines by resolution to be necessary for the purpose of raising funds for use in carrying out the purposes of this section; provided, that any issuance of bonds by a city pursuant to this provision shall be in accordance with such statutory and other legal requirements as govern the issuance of obligations generally by the city.

(14) LIMITED OBLIGATIONS. For the purpose of carrying out or administering a redevelopment plan or other functions authorized under this section, any city is hereby authorized (without limiting its authority under any other law) to issue from time to time bonds of the city which are payable solely from and secured by a pledge of and lien upon any or all of the income, proceeds, revenues, funds and property of the city derived from or held by it in connection with redevelopment projects undertaken pursuant to this section, including the proceeds of grants, loans, advances or contributions from the federal, state or county governments or from other sources (including financial assistance furnished by the city or any other public body). Bonds issued pursuant to this authority shall be in such form, mature at such time or times, bear interest at such rate or rates, be issued and sold in such manner, and contain such terms, covenants, and conditions as the local legislative body of the city shall, by resolution, determine. Such bonds shall be fully negotiable, shall not require a referendum, and shall not be subject to the provisions of any other law or charter relating to the issuance or sale of bonds. Obligations under this

section sold to the United States government need not be sold at public sale. As used in this section, "bonds" shall mean any bonds (including refunding bonds), notes, interim certificates, debentures or other obligations.

(15) CONSTRUCTION. This section shall be construed liberally to effectuate the purposes hereof and the enumeration therein of specific powers shall not operate to restrict the meaning of any general grant of power contained in this section or to exclude other powers comprehended in such general grant.

(16) VALIDATION. All contracts, agreements, obligations and undertakings of cities entered into before July 10, 1953 and all proceedings, acts and things undertaken before such date, performed or done pursuant to, or purporting to be pursuant to, the blighted area law and s. 67.04 (2) (zn), are hereby validated, ratified, confirmed, approved and declared legal in all respects, notwithstanding any defect or irregularity therein or any want of statutory authority.

(17) LIQUIDATION AND DISPOSAL. Projects held under this section may be liquidated and disposed of under s. 66.40 (25).

History: 1951 c. 261 s. 10; 1953 c. 504; 1955 c. 485, 682.

Acquisition of property by a city under this section does not violate sec. 13, art. I, even though parts of the property may be vacant, and the city plans to lease or reconvey the land to private parties for reconstruction according to the city plan. The city may use tax funds for the purpose. David Jeffrey Co. v. Milwaukee, 267 W 559, 66 NW (2d) 362.

66.435 Urban renewal act. (1) SHORT TITLE. This section shall be known and may be cited as the "Urban Renewal Act."

(2) FINDINGS. It is hereby found and declared that there exists in municipalities of the state slum, blighted and deteriorated areas which constitute a serious and growing menace injurious to the public health, safety, morals and welfare of the residents of the state, and the findings and declarations made before August 3, 1955 in s. 66.43 (2) are in all respects affirmed and restated; that while certain slum, blighted or deteriorated areas, or portions thereof, may require acquisition and clearance, as provided in s. 66.43, since the prevailing condition of decay may make impracticable the reclamation of the area by conservation or rehabilitation in such a manner that the conditions and evils hereinbefore enumerated may be eliminated, remedied or prevented, and to the extent feasible salvable slum and blighted areas should be conserved and rehabilitated through voluntary action and the regulatory process; and all acts and purposes provided for by this section are for and constitute public uses and are for and constitute public purposes, and that moneys expended in connection with such powers are declared to be for public purposes and to preserve the public interest, safety, health, morals and welfare. Any municipality in carrying out the provisions of this section shall afford maximum opportunity consistent with the sound needs of the municipality as a whole to the rehabilitation or redevelopment of areas by private enterprise.

(3) URBAN RENEWAL PROJECTS. In addition to its authority under any other section, a municipality is authorized to plan and undertake urban renewal projects. As used in this section, an urban renewal project may include undertakings and activities for the elimination and for the prevention of the development or spread of slums or blighted, deteriorated or deteriorating areas and may involve any work or undertaking for such purpose constituting a redevelopment project or any rehabilitation or conservation work, or any combination of such undertaking or work. For this purpose, "rehabilitation or conservation work" may include (a) carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements; (b) acquisition of real property and demolition, removal or rehabilitation of buildings and improvements thereon where necessary to eliminate unhealthful, insanitary or unsafe conditions, lessen density, reduce traffic hazards, eliminate obsolete or other uses detrimental to the public welfare, or to otherwise remove or prevent the spread of blight or deterioration, or to provide land for needed public facilities; (c) installation, construction or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out the objectives of the urban renewal project; and (d) the disposition, for uses in accordance with the objectives of the urban renewal project, of any property or part thereof acquired in the area of such project, provided, that such disposition shall be in the manner prescribed in this section for the disposition of property in a redevelopment project area.

(4) WORKABLE PROGRAM. (a) The governing body of the municipality, or such public officer or public body as it may designate, including a housing authority organized and created under s. 66.40, is hereby authorized to prepare a workable program for utilizing appropriate private and public resources to eliminate, and prevent the development or spread of, slums and urban blight and deterioration, to encourage needed urban rehabilita-

tion, to provide for the redevelopment of blighted, deteriorated or slum areas, or to undertake such of the aforesaid activities or other feasible activities as may be suitably employed to achieve the objectives of such a program; and such governing body may by resolution or ordinance provide the specific means by which such workable program can be effectuated and may confer upon its officers and employes the power required to carry out a program of rehabilitation and conservation for the restoration and removal of blighted, deteriorated or deteriorating areas. Whenever any municipality finds that there exists in such municipality dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions, any one of which shall be sufficient for action, rendering such dwellings unsafe or insanitary or dangerous or detrimental to the health, safety or morals, or otherwise inimical to the welfare of the residents of such municipality, power is hereby expressly conferred upon such municipality to enact such resolutions or ordinances deemed appropriate and effectual in order to prevent the conditions herein set forth and to require or cause the repair, closing or demolition or removal of such dwellings. Such ordinances or resolutions shall require that notice be given to the owner and residents of the dwelling and a hearing before a board or commission established by the governing body of such municipality and the issuance of an order affording a reasonable time as is specified by the governing body of the municipality in which to repair, alter, change or remodel the dwelling as specified by the public officers or employes of such municipality. For the purposes of such resolutions or ordinances a "dwelling" means any building, or structure, or part thereof, used and occupied for human habitation or intended to be so used, and includes any appurtenances belonging thereto or usually enjoyed therewith.

(b) Any person feeling himself aggrieved by the determination of the officers and employes of such municipality may appeal directly to the circuit court of the county in which such dwelling is located by complying with and proceeding in accordance with ch. 227. No such person shall be entitled to judicial review thereof as provided in ch. 227 unless he shall first serve a petition therefor personally or by registered mail upon such municipality by serving the mayor or clerk thereof within 30 days after the promulgation or issuance of the order, ruling or determination of such municipal officers or employes, and filing such petition within said 30 days with the clerk of the circuit court in which such dwelling is located. All of the procedures applicable in ch. 227 and not inconsistent with the provisions of this section shall fully apply with respect to such order, ruling or determination. Such petition shall be heard at the earliest opportunity by the circuit court upon application of either the municipality or the person aggrieved. If the court shall affirm said order, ruling or determination, it shall set the time within which such order, ruling or determination shall become operative. If it appears to the court that such petition is filed only for purposes of delay, it shall upon application of such municipality promptly dismiss such petition.

(5) GENERAL POWERS CONFERRED UPON MUNICIPALITIES. The governing body of any municipality shall have and there is hereby expressly conferred upon it all powers necessary and incidental to effect a program of urban renewal, including functions with respect to rehabilitation and conservation for the restoration and removal of blighted, deteriorated or deteriorating areas, and such local governing body is hereby authorized to adopt such resolutions or ordinances as may be required for the purpose of carrying out that program and the objectives and purposes of this section. In connection with the planning, undertaking and financing of the urban renewal program or projects, the governing body of any municipality and all public officers, agencies and bodies shall have all the rights, powers, privileges and immunities which they have with respect to a redevelopment project under s. 66.43.

(6) ASSISTANCE TO URBAN RENEWAL BY MUNICIPALITIES AND OTHER PUBLIC BODIES. Any public body is hereby authorized to enter into agreements (which may extend over any period, notwithstanding any provision or rule of law to the contrary) with any other public body or bodies respecting action to be taken pursuant to any of the powers granted by this section, including the furnishing of funds or other assistance in connection with an urban renewal plan or urban renewal project.

(7) POWERS HEREIN GRANTED TO BE SUPPLEMENTAL AND NOT IN DEROGATION. (a) Nothing in this section shall be construed to abrogate or impair the powers of the courts or of any department of any municipality to enforce any provisions of its charter or its ordinances or regulations, nor to prevent or punish violations thereof.

(b) Nothing in this section shall be construed to impair or limit in any way the power of the municipality to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise.

(c) The powers conferred by this section shall be in addition and supplemental to the powers conferred by any other law; and this section shall be construed liberally to effectuate the purposes hereof and the enumeration therein of specific powers shall not operate to restrict the meaning of any general grant of power contained in this section or to exclude other powers comprehended in such general grant.

History: 1955 c. 485, 652.

66.44 War housing by housing authorities. (1) Any housing authority established pursuant to ss. 66.40 to 66.404 may undertake the development or administration or both of projects to provide housing for persons (and their families) engaged or to be engaged in war industries or activities and may exercise any of its rights, powers, privileges and immunities to aid and co-operate with the federal government (or any agency thereof) in making housing available for persons (and their families) engaged or to be engaged in war industries or activities; may act as agent for the federal government in developing and administering such housing; may lease such housing from the federal government (or any agency thereof); and may arrange with public bodies and private agencies for such services and facilities as may be needed for such housing; provided, that any such housing shall not be subject to ss. 66.401 (2) and 66.402. Without limiting any existing power, the powers of any public body in the state pursuant to s. 66.403 may be exercised with respect to such housing. With the consent, by resolution, of the governing body of any city or county adjacent but outside of the area of operation of a housing authority, the housing authority may exercise its powers under this section within the territorial boundaries of such city or county.

(2) Any project of a housing authority, for which the federal government has heretofore made or contracted to make financial assistance available, may be administered to provide housing for persons engaged or to be engaged in war industries or activities.

66.47 County-city hospitals; village powers. (1) DEFINITIONS. "Ordinance" as used in this section, unless the context requires or specifies otherwise, means an ordinance adopted by the governing body of a city or county and concurred in by the other governing body or bodies, and "board" means the joint county-city hospital board established pursuant to this section.

(2) COUNTY-CITY HOSPITALS. Any county and city or cities partly or wholly within the county may by ordinance jointly construct or otherwise acquire, equip, furnish, operate and maintain a general county-city hospital.

(3) FINANCING. The governing bodies of the respective county and city or cities shall have the power to borrow money, appropriate funds, and levy taxes needed to carry out the purposes of this section. Funds to be used for the purposes specified in this section may be provided by the respective county, city or cities by general obligation bonds issued under chapter 67 or by revenue bonds issued under section 66.51. Any bonds issued pursuant to this section shall be executed on behalf of the county by the county board chairman and the county clerk and on behalf of a city by the mayor or other chief executive officer thereof and by the city clerk.

(4) COST SHARING. The ordinance shall provide for a sharing of all of the cost of construction or other acquisition, equipment, furnishing, operation and maintenance of such hospital on an agreed percentage basis.

(5) HOSPITAL BOARD. The ordinance shall provide for the establishment of a joint county-city hospital board to be composed as follows: 2 to be appointed by the county board chairman and confirmed by the county board, one for a one-year and one for a 2-year term; 2 by the mayor or other chief executive officer and confirmed by the city council, one for a one-year and one for a 2-year term; and one jointly by the county board chairman and the mayor or other chief executive officer of the city or cities, for a term of 3 years, confirmed by the county board and the city council or councils. Their respective successors shall be appointed and confirmed in like manner for terms of 3 years. All appointees shall serve until their successors are appointed and qualified. Terms shall begin as specified in the ordinance. Vacancies shall be filled for the unexpired term in the manner in which the original appointment was made.

(6) VALIDATION OF PRIOR ACTIONS. The actions of any county and city or cities taken before April 17, 1949 in the construction or other acquisition, equipment, furnishing, operation and maintenance of a joint county-city hospital which would have been valid if this section had then been in effect are hereby validated.

(7) ORGANIZATION OF BOARDS; OFFICERS; COMPENSATION; OATHS; BONDS. (a) When all members have qualified the board shall meet at the place designated in the ordinance and organize by electing from its membership a president, a vice president, a secretary and a treasurer, each to hold office for one year. The offices of secretary and treasurer may be

combined if the board so decides. Members shall receive such compensation as shall be provided in the ordinance, and shall be reimbursed their actual and necessary expenses. With the approval of the board, the treasurer may appoint an assistant treasurer, who need not be a member of the board, to perform such services as shall be specified by the board.

(b) Members, and any assistant treasurer, shall qualify by taking the official oath, and the treasurer and any assistant treasurer shall furnish a bond in such sum as shall be specified by the board and be in the form and conditioned as provided in section 19.01 (2) and (3). The oaths and bonds shall be filed with the county clerk. The cost of the bond shall be paid by the board.

(8) POWERS OF BOARD. The board shall have power subject to provisions of the ordinance:

(a) To contract for the construction or other acquisition, equipment or furnishing of a general county-city hospital.

(b) To contract for the construction or other acquisition of additions or improvements to, or alterations in, such hospital and the equipment or furnishing of any such addition.

(c) To employ a manager of the hospital and other necessary personnel and fix their compensation.

(d) To enact, amend and repeal rules and regulations, not inconsistent with law, for the admission to, and government of patients at, the hospital, for the regulation of the board's meetings and deliberations, and for the government, operation and maintenance of the hospital and the employes thereof.

(e) To contract for and purchase all fuel, food, equipment, furnishings and supplies reasonably necessary for the proper operation and maintenance of the hospital.

(f) To audit all accounts and claims against the hospital or against the board, and, if approved, pay the same from the fund specified in subsection (10). All expenditures made pursuant to this section shall be within the limits of the ordinance.

(g) To sue and be sued, and to collect or compromise any and all obligations due to the hospital; all money received shall be paid into the joint hospital fund.

(h) To make such studies and recommendations to the county board and city council or city councils relating to the operation of the hospital or the building of facilities therefor as the board may deem advisable or said governing bodies request.

(i) To employ counsel on either a temporary or permanent basis.

(9) BUDGET. The board shall annually, prior to the time of the preparation of either the county or city budget under section 65.90, prepare a budget of its anticipated receipts and expenditures for the ensuing fiscal year and determine the proportionate cost to the county and the participating city or cities pursuant to the terms of the ordinance. A certified copy of the budget, which shall include a statement of the net amount required from the county and city or cities, shall be delivered to the clerks of the respective municipalities. It shall be the duty of the county board and the common council of the city or cities to consider such budget, and determine the amount to be raised by the respective municipalities in the proportions determined by the ordinance. Thereupon the county and city or cities respectively shall levy a tax sufficient to produce the amount to be raised by said county and city or cities.

(10) HOSPITAL FUND. A joint county-city hospital fund shall be created and established in a public depository to be specified in the ordinance. The treasurer of the respective county and city or cities shall pay or cause to be paid into such fund the respective amounts to be paid thereto by such county and city or cities as specified by the ordinance and resolutions of the respective municipalities when such amounts have been collected. All of the moneys which shall come into said fund are hereby appropriated to the board for the execution of its functions as provided by the ordinance and the resolutions of the respective municipalities. The moneys in the fund shall be paid out by the treasurer of the hospital board only upon the approval or direction of the board.

(11) CORRELATION OF LAWS. (a) In any case where a bid is a prerequisite to contract in connection with a county or city hospital under section 66.29, it shall also be a prerequisite to a valid contract by the board; and for such purpose the board shall be deemed a municipality and the contract a public contract under section 66.29.

(b) All statutory requirements, not inconsistent with the provision of this section, applicable to general county or city hospitals shall apply to hospitals referred to in this section.

(12) REPORTS. The board shall report its activities to the county board and the city council or councils annually, or oftener as either of said municipalities may require.

(14) POWERS OF VILLAGES. Villages shall have all the powers granted to cities under subs. (1) to (12) and whenever any village shall exercise such powers the word "city" wherever it appears in subs. (1) to (12) means "village" unless the context otherwise requires. Any village participating in the construction or other acquisition of a general county-village hospital or in the operation thereof, pursuant to this section, shall have the power to enter into lease agreements leasing such hospital and the equipment and furnishings therein to a nonprofit corporation.

History: 1955 c. 28; 1957 c. 60, 610.

66.50 Municipal hospital board. (1) In any city or village, however organized, having a municipal hospital therein, the board of trustees or other governing board of such municipal hospital shall have power and authority, except as otherwise provided by ordinance:

(a) To prescribe rules of order for the regulation of their own meetings and deliberations and to alter, amend or repeal the same from time to time;

(b) To enact, amend and repeal rules and regulations relating to the government, operation and maintenance of such hospital and relating to the employes thereof;

(c) To contract for and purchase all fuel, food and other supplies reasonably necessary for the proper operation and maintenance of such hospital;

(d) To enact, amend and repeal rules and regulations for the admission to and government of patients at such hospital;

(e) To enter into contract for the construction, installation or making of additions or improvements to or alterations of such hospital whenever such additions, improvements or alterations have been ordered and funds provided therefor by the city council;

(f) To engage all necessary employes at such hospital for a period not to exceed one year under any one contract and at a salary not to exceed the sum of twenty-five dollars per week, excluding board and laundry, unless a larger salary be expressly authorized by the city council;

(g) To audit all accounts and claims against said hospital or against said board of trustees and, if approved, such shall be paid by the city or village clerk and treasurer in the manner provided by section 66.042.

(2) All expenditures made pursuant to this section shall be within the limits authorized by the governing body of the municipality.

A regulation adopted by the governing board of a municipally owned and operated hospital, suspending the right of a duly licensed physician residing in the municipality to practice in such hospital, is not reasonable unless provision is made for notice to him of the nature of the charges against him, and for a hearing. Johnson v. Ripon, 259 W 84, 47 NW (2d) 328.

(1) (e) does not apply to the construction of an entirely new hospital but only to additions, improvements, or alterations of an existing hospital, and does not authorize such board to enter into a valid contract with an architectural firm for the furnishing of architectural services in connection with the erection of a proposed new hospital building. Ellerbe & Co. v. Hudson, 1 W (2d) 148, 83 NW (2d) 700.

66.505 County-city auditoriums. (1) DEFINITIONS. "Ordinance" as used in this section, unless the context requires or specifies otherwise, means an ordinance adopted by the governing body of a city or county and concurred in by the other governing body, "board" means the joint county-city auditorium board established pursuant to this section, "auditorium" shall include a building of either arena or music hall type construction or a combination of such types of construction, and such building may include facilities for a variety of events including sports, dances, convention exhibitions, trade shows, meetings, rallies, theatrical exhibitions, concerts and other events attracting spectators and participants.

(2) COUNTY-CITY AUDITORIUMS. Any county and city partly or wholly within the county may by ordinance jointly construct or otherwise acquire, equip, furnish, operate and maintain a county-city auditorium.

(3) FINANCING. The governing bodies of the respective county and city or cities shall have the power to borrow money, appropriate funds, and levy taxes needed to carry out the purposes of this section. Funds to be used for the purposes specified in this section may be provided by the respective county, city or cities by general obligation bonds issued under ch. 67 or by revenue bonds issued under s. 66.51 or by the issuance of both general obligation bonds under ch. 67 and revenue bonds issued under s. 66.51. Any bonds issued pursuant to this section shall be executed on behalf of the county by the county board chairman and the county clerk and on behalf of a city by the mayor or other chief executive officer thereof and by the city clerk.

(4) COST SHARING. The ordinance shall provide for a sharing of all of the cost of construction or other acquisition, equipment, furnishing, operation and maintenance of such auditorium on an agreed percentage basis.

(5) AUDITORIUM BOARD. The ordinance shall provide for the establishment of a joint county-city auditorium board to be composed as follows: The mayor, or chief executive of the city and the chairman of the county board, who shall serve as ex officio members of the board during their respective terms of office; in addition thereto the board shall be composed of 4 members to be appointed by the county board chairman and confirmed by the county board, one for a one-year, one for a 2-year, one for a 3-year and one for a 4-year term, and 4 members to be appointed by the mayor or other chief executive officer of the city and confirmed by the city council, one for a one-year, one for a 2-year, one for a 3-year and one for a 4-year term; in the case of the members of the board appointed by the mayor or chief executive of the city, not more than 2 public officials (either elected or appointed) shall be eligible to be members of the board, and in the case of the members of the board appointed by the county board chairman, not more than 2 public officials (either elected or appointed) shall be eligible to be members of the board. Their respective successors shall be appointed and confirmed in like manner for terms of 4 years. All appointees shall serve until their successors are appointed and qualified. Terms shall begin as specified in the ordinance. Vacancies shall be filled for the unexpired term in the manner in which the original appointment was made.

(6) ORGANIZATION OF BOARDS; OFFICERS; COMPENSATION; OATHS; BONDS. (a) When all members have qualified the board shall meet at the place designated in the ordinance and organize by electing from its membership a president, a vice president, a secretary and a treasurer, each to hold office for one year. The offices of secretary and treasurer may be combined if the board so decides. Members may receive such compensation as may be provided in the ordinance and shall be reimbursed their actual and necessary expenses for their services, provided that ex officio members shall not receive compensation other than any actual and necessary expenses for their services. With the approval of the board, the treasurer may appoint an assistant secretary and assistant treasurer, who need not be members of the board, to perform such services as shall be specified by the board.

(b) Members, and any assistant secretary and assistant treasurer, shall qualify by taking the official oath, and the treasurer and any assistant treasurer shall furnish a bond in such sum as shall be specified by the board and be in the form and conditioned as provided in s. 19.01 (2) and (3). The oaths and bonds shall be filed with the county clerk. The cost of the bond shall be paid by the board.

(7) POWERS OF BOARD. The board shall have power subject to provisions of the ordinance:

(a) To contract for the construction or other acquisition, equipping or furnishing of a county-city auditorium, and may accept donated services and gifts, grants or donations of money or property and use the same for the purposes given and consistent with this section, and may contract for and authorize the installation of equipment and furnishings of the auditorium, or any part thereof by private individuals, persons or corporations by donations, loan, lease or concession.

(b) To contract for the construction or other acquisition of additions or improvements to, or alterations in, such auditorium and the equipment or furnishing of any such addition; and may contract for or authorize the installation of equipment and furnishings in such addition, or any part thereof, by private individuals, persons or corporations by donation, loan or concession.

(c) To employ a manager of the auditorium and other necessary personnel and fix their compensation.

(d) To enact, amend and repeal rules and regulations, not inconsistent with law, for the leasing of, charges for admission to, and government of audiences and participants in events at the auditorium, for the regulation of the board's meetings and deliberations, and for the government, operation and maintenance of the auditorium and the employes thereof.

(e) To contract for, purchase or hire all fuel, equipment, furnishings, and supplies, services and help reasonably necessary for the proper operation and maintenance of the auditorium, and to contract for, purchase, hire, promote, conduct and operate, either by lease of the auditorium building or parts thereof or by direct operation by the auditorium board, meetings, concerts, theatricals, sporting events, conventions and other entertainment or events suitable to be held at the auditorium; and to handle and make all proper arrangements for the sale and disposition of admission tickets to auditorium events and the establishment of seating arrangements and priorities.

(f) To audit all accounts and claims against the auditorium or against the board, and, if approved, pay the same from the fund specified in sub. (9). All expenditures made pursuant to this section shall be within the limits of the ordinance.

(g) To sue and be sued, and to collect or compromise any and all obligations due to the auditorium; all money received shall be paid into the joint auditorium fund.

(h) To make such studies and recommendations to the county board and city council relating to the operation of the auditorium or the building of facilities therefor as the board may deem advisable or said governing bodies request.

(i) To employ counsel on either a temporary or permanent basis.

(8) BUDGET. The board shall annually, prior to the time of the preparation of either the county or city budget under s. 65.90, prepare a budget of its anticipated receipts and expenditures for the ensuing fiscal year and determine the proportionate cost to the county and the participating city pursuant to the terms of the ordinance. A certified copy of the budget, which shall include a statement of the net amount required from the county and city, shall be delivered to the clerks of the respective municipalities. It shall be the duty of the county board and the common council of the city to consider such budget, and determine the amount to be raised by the respective municipalities in the proportions determined by the ordinance. Thereupon the county and city respectively shall levy a tax sufficient to produce the amount to be raised by said county and city.

(9) AUDITORIUM FUND. A joint county-city auditorium fund shall be created and established in a public depository to be specified in the ordinance. The treasurer of the respective county and city shall pay or cause to be paid into such fund the respective amounts to be paid thereto by such county and city as specified by the ordinance and resolutions of the respective municipalities when such amounts have been collected. All of the moneys which shall come into said fund are hereby appropriated to the board for the execution of its functions as provided by the ordinance and the resolutions of the respective municipalities. The moneys in the fund shall be paid out by the treasurer of the auditorium board only upon the approval or direction of the board.

(10) CORRELATION OF LAWS. (a) In any case where a bid is a prerequisite to contract in connection with a county or city auditorium under s. 66.29, it shall also be a prerequisite to a valid contract by the board; and for such purpose the board shall be deemed a municipality and the contract a public contract under s. 66.29.

(b) All statutory requirements, not inconsistent with the provisions of this section, appplicable to city auditoriums shall apply to auditoriums provided for in this section.

(11) REPORTS. The board shall report its activities to the county board and the city council annually, or oftener as either of said municipalities may require.

History: 1953 c. 598; 1955 c. 10; 1957 c. 60.

66.508 County-city safety building. (1) DEFINITIONS. "Ordinance" as used in this section, unless the context requires or specifies otherwise, means an ordinance adopted by the governing body of a city or county and concurred in by the other governing body, and "board" means the joint county-city safety building board established pursuant to this section.

(2) COUNTY-CITY SAFETY BUILDING. Any county and city partly or wholly within the county may by ordinance jointly construct or otherwise acquire, equip, furnish, operate and maintain a county-city safety building.

(3) FINANCING. The governing bodies of the respective county and city shall have the power to borrow money, appropriate funds, and levy taxes needed to carry out the purposes of this section. Funds to be used for the purposes specified in this section may be provided by the respective county or city by general obligation bonds issued under ch. 67 or by revenue bonds issued under s. 66.51 or by the issuance of both general obligation bonds under ch. 67 and revenue bonds issued under s. 66.51. Any bonds issued pursuant to this section shall be executed on behalf of the county by the county board chairman and the county clerk and on behalf of a city by the mayor or other chief executive officer thereof and by the city clerk.

(4) COST SHARING. The ordinance shall provide for a sharing of all of the cost of construction or other acquisition, equipment, furnishing, operation and maintenance of such safety building on an agreed percentage basis.

(5) SAFETY BUILDING BOARD. The ordinance shall provide for the establishment of a joint county-city safety building board to be composed of 3 members to be appointed by the county board, one for a one-year, one for a 2-year and one for a 3-year term, and 3 members to be appointed by the city council, one for a one-year, one for a 2-year and one for a 3-year term, and one additional member appointed by the other members for a 3-year term. The membership of such board shall include the chairman of the county board and the mayor of the city, who shall be initially designated as members for the 3-year terms. Their respective successors shall be appointed and confirmed in like manner for terms of 3 years. All appointees shall serve until their successors are ap-

pointed and qualified. Terms shall begin as specified in the ordinance. If a member of the board ceases to hold his city or county office his membership on the board also terminates. Vacancies shall be filled for the unexpired term in the manner in which the original appointment was made. Members of the board shall be officials of the county or city.

(6) ORGANIZATION OF BOARDS; OFFICERS; COMPENSATION; OATHS; BONDS. (a) When all members have qualified the board shall meet at the place designated in the ordinance and organize by electing from its membership a president, a vice president, a secretary and a treasurer, each to hold office for one year. The offices of secretary and treasurer may be combined if the board so decides. Members may receive such compensation as may be provided in the ordinance and shall be reimbursed their actual and necessary expenses for their services. The board may appoint an assistant secretary and assistant treasurer, who need not be members of the board, to perform such services as shall be specified by the board.

(b) Members, and any assistant secretary and assistant treasurer, shall qualify by taking the official oath, and the treasurer and any assistant treasurer shall furnish a bond in such sum as shall be specified by the board and be in the form and conditioned as provided in s. 19.01 (2) and (3). The oaths and bonds shall be filed with the county clerk. The cost of the bond shall be paid by the board.

(7) POWERS OF BOARD. The board shall have power subject to provisions of the ordinance:

(a) To contract for the construction or other acquisition, equipping or furnishing of a county-city safety building, and may accept donated services and gifts, grants or donations of money or property and use the same for the purposes given and consistent with this section, and may contract for and authorize the installation of equipment and furnishings of the safety building, or any part thereof by private individuals, persons or corporations by donations, loan, lease or concession.

(b) To contract for the construction or other acquisition of additions or improvements to, or alterations in, such safety building and the equipment or furnishing of any such addition; and may contract for or authorize the installation of equipment and furnishings in such addition, or any part thereof, by private individuals, persons or corporations by donation, loan or concession.

(c) To employ a superintendent of the safety building and other necessary personnel and fix their compensation.

(d) To enact, amend and repeal rules and regulations, not inconsistent with law, for the regulation of the board's meetings and deliberations, and for the government, operation and maintenance of the safety building and the employes thereof.

(e) To contract for, purchase or hire all fuel, equipment, furnishings, and supplies, services and help reasonably necessary for the proper operation and maintenance of the safety building.

(f) To audit all accounts and claims against the safety building or against the board, and, if approved, pay the same from the fund specified in sub. (9). All expenditures made pursuant to this section shall be within the limits of the ordinance.

(g) To sue and be sued, and to collect or compromise any and all obligations due to the safety building; all money received shall be paid into the joint safety building fund.

(h) To make such studies and recommendations to the county board and city council relating to the operation of the safety building or the building of facilities therefor as the board may deem advisable or said governing bodies request.

(i) To employ counsel on either a temporary or permanent basis.

(8) BUDGET. The board shall annually, prior to the time of the preparation of either the county or city budget under s. 65.90, prepare a budget of its anticipated receipts and expenditures for the ensuing fiscal year and determine the proportionate cost to the county and the city pursuant to the terms of the ordinance. A certified copy of the budget, which shall include a statement of the net amount required from the county and city, shall be delivered to the clerks of the respective municipalities. It shall be the duty of the county board and the common council of the city to consider such budget, and determine the amount to be raised by the respective municipalities in the proportions determined by the ordinance. Thereupon the county and city respectively shall levy a tax sufficient to produce the amount to be raised by said county and city.

(9) SAFETY BUILDING FUND. A joint county-city safety building fund shall be created and established in a public depository to be specified in the ordinance. The treasurer of the respective county and city shall pay or cause to be paid into such fund the respective amounts to be paid thereto by such county and city as specified by the ordinance and resolutions of the respective municipalities when such amounts have been collected. All of the moneys which shall come into said fund are hereby appropriated to the board for

the execution of its functions as provided by the ordinance and the resolutions of the respective municipalities. The moneys in the fund shall be paid out by the treasurer of the safety building board only upon the approval or direction of the board.

(10) CORRELATION OF LAWS. In any case where a bid is a prerequisite to contract in connection with a county or city safety building under s. 66.29, it shall also be a prerequisite to a valid contract by the board; and for such purpose the board shall be deemed a municipality and the contract a public contract under s. 66.29.

(11) REPORTS. The board shall report its activities to the county board and the city council annually, or oftener as either of said municipalities may require.

(13) INSURANCE. The board may procure and enter contracts for any type of insurance and indemnity against loss or damage to property from any cause, including loss of use and occupancy, against death or injury of any person, against employers' liability, against any act of any member, officer or employe of the board in the performance of his duties, or any other insurable risk.

(14) CONSTRUCTION. Nothing in this section shall be construed as relieving, modifying or interfering with the responsibilities for operating jails which are vested in sheriffs under s. 59.23 (1) and chiefs of police under s. 62.09 (13) (b).

History: 1955 c. 686; 1957 c. 60.

66.51 Revenue bonds for counties and cities. (1) (a) Every county, or city, or both jointly, may construct, purchase, acquire, develop, improve or operate a county or city building, or both jointly, for a courthouse, safety building, city hall, hospital, armory, library, auditorium and music hall, municipal parking lots or other parking facilities, or municipal center or any combination thereof.

(b) The county board, common council of any city, or both jointly, are authorized in their discretion, for any of its corporate purposes as set forth in this subsection, to issue bonds on which the principal and interest are payable from the income and revenues of such project financed with the proceeds of such bonds or with such proceeds together with the proceeds of a grant from the federal government to aid in the financing and construction thereof. In the case of municipal parking lots or other parking facilities such bonds may in addition be payable as to both principal and interest from income and revenues from other similar projects, parking meters, parking fees, or any other income or revenue obtained through parking, or any combination thereof.

(c) The credit of the county, or city, or both jointly, shall not be pledged to the payment of such bonds, but shall be payable only from the income and revenues described in par. (b) or the funds received from the sale or disposal thereof. If the county board, or common council of a city, or both jointly, so determine, such bonds shall be secured either by a trust indenture pledging such revenues or by a mortgage on the property comprising such project and the revenues therefrom.

(2) The bonds or other evidences of indebtedness shall state upon their face that the county, or city, or both jointly, shall not be a debt thereof or be liable therefor. Any indebtedness created by this section shall not be considered an indebtedness of such county or city and shall not be included in such amounts of determining the constitutional five per cent debt limitations.

(3) The provisions of section 66.066 relating to the issuance of revenue bonds by cities for public utility purposes in so far as applicable shall apply to the issuance of revenue bonds under this section.

(4) All actions of any county or city, including all contracts, agreements, obligations and undertakings entered into pursuant to such actions, before December 4, 1955, in connection with the construction or other acquisition, equipment, furnishing, operation and maintenance of a joint county-city safety building, which would have been valid if this act (1955) had been in effect when such actions were taken, are hereby validated.

History: 1953 c. 439; 1955 c. 686.

A city and county have authority to issue general obligation bonds to finance their respective shares of the cost of a joint city-county building. 40 Atty. Gen. 9.
See note to 59.07, citing 45 Atty. Gen. 204.

66.52 Promotion of industry. (1) It is declared to be the policy of the state to encourage and promote the development of industry to provide greater employment opportunities and to broaden the state's tax base to relieve the tax burden of residents and home owners. It is recognized that the availability of suitable sites is a prime factor in influencing the location of industry but that existing available sites may be encroached upon by the development of other uses unless protected from such encroachment by purchase and reservation. It is further recognized that cities and villages have broad power to act for the commercial benefit and the health, safety and public welfare of the public. However, to implement that power legislation authorizing borrowing is necessary. It is, therefore,

declared to be the policy of the state to authorize cities and villages to borrow for the reservation and development of industrial sites, and the expenditure of funds therefor is determined to be a public purpose.

(2) For financing purposes, the purchase, reservation and development of industrial sites undertaken by any city or village is a public utility within the meaning of s. 66.066. In financing under that section, rentals and fees shall be considered as revenue. Any indebtedness created hereunder shall not be included in arriving at the constitutional debt limitation.

(3) Sites purchased for industrial development under this section or pursuant to any other authority may be developed by the city or village by the installation of utilities and roadways but not by the construction of buildings or structures. Any such sites may be sold or leased for industrial purposes but only for a fair consideration to be determined by the governing body.

History: 1957 c. 98.

66.526 Uniform salaries in first class cities. The common council of any city of the first class, however incorporated, may at any regular or special meeting, at any time during the calendar year, adopt a uniform and comprehensive salary or wage ordinance, or both, based on a classification of officers, employments and positions in the city service and of and including any and all offices and positions whatsoever in the employment of such city, whether previously so classified or not, provided provision has been made in the budget of the current year for the total sum of money required for the payment of salaries and wages for such employment and a tax levied to include the same, with the following exception: That wages may be fixed at any such time by resolution alone and that the common council may, at any time during the calendar year, at any such meeting determine a cost-of-living increment or deduction, to be paid in addition to such wages or salaries, based on a proper finding of the United States bureau of labor statistics. Any such common council may, at any such meeting, provide for overtime pay of employes worked in excess of 40 hours per week.

66.527 Recreation authority. (1) (a) Funds for the establishment, operation and maintenance of a department of recreation may be provided by the governing body of any town or school district after compliance with the provisions of section 65.90 or such funds must be appropriated following a favorable referendum conducted at any regular election.

(b) The governing body of any town may, upon its own initiative, order such a referendum and shall order such a referendum upon written petition signed by not less than 15 per cent of the total electors whose votes were cast for the office of governor at the last regular election of such town.

(c) The petition for a referendum shall state the amount of money to be raised for the purpose of establishing, operating and maintaining such a recreation department. The amount raised shall not exceed one-tenth of a mill on the assessed valuation of the town.

(d) Following a favorable mill tax referendum, the mill tax necessary to raise the required amount to establish, maintain and operate a department of public recreation shall be levied on the taxable property in any such governmental unit. Thereafter money may be raised for such purpose by following the provisions of section 65.90 as far as applicable. Such moneys levied and collected shall not be used directly or indirectly for any other purpose.

(2) (a) Any such governmental unit may delegate the power to establish, maintain and operate a department of public recreation to a board of recreation, which shall consist of 3 members and shall be appointed by the chairman or other presiding officer of the governing body. The first appointments shall be made so that one member will serve one year, one for 2 years and one for 3 years; thereafter appointments shall be for terms of 3 years.

(b) When 2 or more of the aforesaid governing units desire to conduct, jointly, a department of public recreation, the joint recreation board shall consist of not less than 3 members who shall be selected by the presiding officers of such governmental units acting jointly. Appointments shall be made for terms as provided in paragraph (a).

(c) The members of any such recreation board shall serve gratuitously.

(d) Such recreation board is authorized to conduct the activities of such public recreation department, to expend funds therefor, to employ a supervisor of recreation, to employ assistants, to purchase equipment and supplies, and generally to supervise the administration, maintenance and operation of such department and recreational activities authorized by the board.

(3) (a) The public recreation board has the right to conduct public recreation activities on property purchased or leased by any such governing unit for recreational

purposes and under its own custody, on other public property under the custody of any other public authority, body or board with the consent of such public authority, body or board, or on private property with the consent of its owner, and such board with the approval of the appointing board, may accept gifts and bequests of land, money or other personal property, and use the same in whole or in part, or the income therefrom or the proceeds from the sale of any such property in the establishment, maintenance and operation of recreational activities.

(b) The board shall annually submit to the governing body a report of its activities and showing receipts and expenditures. Such reports shall be submitted not less than 15 days prior to the annual meeting of such governmental unit.

(c) An audit shall be made of the accounts of such recreational board in the same manner as provided for audits for towns or school districts as the case may be.

(d) The persons selected by the recreation board shall furnish a surety bond in such amount as shall be fixed by the governing body.

66.53 Repayment of assessments in certain cases. Whenever in any city any contract for improvements has been or may be hereafter declared void by any court of last resort on the following grounds: want of power to make such contract; made contrary to a prohibition against contracting in any other than a specified way; or forbidden by statute, and if the governing body of such city shall not have adopted the resolution referred to in subsection (1) of section 66.295 relating to payment of any person who has furnished any benefits pursuant to said void contract, the governing body of such city may provide that all persons who have paid all or any part of any assessment levied against the abutting property owners by reason of such improvement may be reimbursed the amount of such assessment so paid from such fund as the governing body may determine.

66.54 Special improvement bonds; certificates. (1) DEFINITIONS. Wherever used or referred to in this section, unless a different meaning clearly appears from the context:

(a) "Municipality" means county, city, village, town, farm drainage board, sanitary districts, utility districts, and all other public boards, commissions or districts, except cities of the first class, authorized by law to levy special assessments for public improvements against the property benefited thereby.

(b) "Governing body" means the body or board vested by statute with the power to levy special assessments for public improvements.

(c) "Contractor" means the person, firm or corporation performing the work or furnishing the materials, or both, for a public improvement.

(d) "Public improvement" means the result of the performance of work or the furnishing of materials or both, for which special assessments are authorized to be levied against the property benefited thereby.

(e) "Sinking fund" means the fund, however derived, set aside for the payment of principal and interest on contractor's certificates or bonds issued under this section.

(2) METHODS OF PAYMENT FOR PUBLIC IMPROVEMENTS. In addition to the other methods prescribed by law, payment of the cost of any public improvement authorized by the governing body of any municipality on or after July 1, 1943, may be made by any one of the following methods or a combination thereof:

(a) Payment by the municipality out of its general funds.

(b) Payment out of the proceeds of the sale of bonds issued by it, pursuant to section 67.04.

(c) Contractor's certificates, constituting a lien against a specific parcel of real estate.

(d) General obligation—local improvement bonds, or the proceeds thereof.

(e) Special assessment B bonds, or the proceeds thereof.

(3) PRELIMINARY PAYMENT ON COST OF PUBLIC IMPROVEMENTS. Whenever it is determined that the cost of any public improvement about to be made is to be paid, wholly or in part, by special assessments against the property to be benefited by the improvement, the resolution authorizing such public improvement shall provide and require that the whole, or any stated proportion, or no part of the estimated aggregate cost of such public improvement, which is to be levied as special assessments, shall be paid into the municipal treasury in cash. No such public improvement shall be commenced nor any contract let therefor unless and until such payment, if any, required by said resolution, is paid into the treasury of the municipality by the owner or persons having an interest in the property to be benefited, which payment shall be credited on the amount of the special assessments levied or to be levied against benefited property designated by the payer. In the event that a preliminary payment

is required by said resolution, the refusal of one or more owners or persons having an interest in the property to be benefited to pay such preliminary payments shall not prevent the making of such improvement, if the entire specified sum is obtained from the remaining owners or interested parties.

(4) DISCOUNT ON CONTRACT PRICE. Every bid hereafter received for any public improvement which is not to be paid wholly in cash shall contain a provision that all payments made in cash by the municipality as provided by contract or made on special assessments as hereinafter provided shall be subject to a specified rate of discount. The municipal treasurer shall issue a receipt for every such payment made on any special assessment, stating the date and amount of the cash payment, the discount and the total credit including such discount, on a specified special assessment or assessments. The treasurer shall on the same day deliver a duplicate of such receipt to the clerk, who shall credit the specified assessments accordingly. All moneys so received shall be paid to the contractor as provided by the contract.

(5) PAYMENT BY MUNICIPALITY. Whenever any such public improvement has been paid for by the municipality, contractor's certificates as provided for in subsection (6), or general obligation-local improvement bonds as provided for in subsection (9), or special assessment B bonds as provided for in subsection (10) may be issued to the municipality as the owner thereof. All of the provisions of said subsections (6), (9) and (10) applicable to the contractor or to the owner of such contractor's certificates or to such general obligation-local improvement bonds or to such special assessment B bonds shall be deemed to include the municipality which has paid for such improvement and to which such contractor's certificates, general obligation-local improvement bonds or special assessment B bonds have been issued, except as in this section otherwise provided.

(6) PAYMENT BY CONTRACTOR'S CERTIFICATE. (a) Whenever any public improvement has been made and has been accepted by the governing body of the municipality, it may cause to be issued to the contractor for such public improvement, a contractor's certificate as to each parcel of land against which special assessments have been levied for the unpaid balance of the amount chargeable thereto, describing each parcel. Such certificate shall be substantially in the following form:

$ .... (name of municipality) No. ....

CONTRACTOR'S CERTIFICATE FOR CONSTRUCTION OF ....
(name of municipality)
Issued pursuant to section 66.54 (6) Wis. Stats.

We, the undersigned officers of the (name of municipality), hereby certify that (name and address of contractor) has performed the work of constructing .... in .... benefiting the following premises, to wit: (insert legal description) in the (name of municipality) .... County, Wisconsin, pursuant to a contract entered into by said (name of municipality) with the said (name of contractor), dated ...., and that .... entitled to the sum of .... dollars, being the unpaid balance due for said work chargeable to the property hereinabove described.

NOW, THEREFORE, if the said sum shall not be paid to the treasurer of (name of municipality) before the first day of December, next, the same shall be extended upon the tax roll of the (name of municipality) against the property above described as listed therein, and collected for, as provided by law.

This certificate is transferable by indorsement but such assignment or transfer shall be invalid unless the same shall be recorded in the office of the clerk of the (name of municipality) and the fact of such recording is indorsed on this certificate. THE HOLDER OF THIS CERTIFICATE SHALL HAVE NO CLAIM UPON THE (name of municipality) IN ANY EVENT, EXCEPT FROM THE PROCEEDS OF THE SPECIAL ASSESSMENTS LEVIED FOR SAID WORK AGAINST THE ABOVE DESCRIBED LAND.

This certificate shall bear interest at 6% per annum from its date to January 1 next succeeding. This certificate may be exchanged for the tax sale certificate resulting from the sale of the above described lands for failure to pay the special assessment levied for the work hereinabove described.

Given under our hands at (name of municipality), this .... day of ...., 19...

....
(Mayor, President, Chairman)

Countersigned:

....
Clerk, (name of municipality)

ASSIGNMENT RECORD

Assigned by	to	of	
....	....	....	....
(Original Contractor)	(name of Assignee)	(Address of Assignee)	(Date and signature of clerk)

(b) Such certificate shall in no event be a municipal liability and shall so state in bold face type printed on the face thereof. Upon issuance of said certificate, the clerk of the municipality shall at once deliver to the municipal treasurer a schedule of each such certificate showing the date, amount, number, date of maturity, person to whom issued and parcel of land against which the assessment is made. The treasurer shall thereupon notify, by mail, the owner of said parcel as the same appears on the last assessment roll, that payment is due on said certificate at the office of said treasurer, and if such owner shall pay such amount or part thereof so due, said clerk shall cause the same to be paid to the registered holder of said certificate, and shall indorse such payment on the face of said certificate and on his record thereof. The clerk shall keep a record of the names of the persons, firms or corporations to whom such contractor's certificates shall be issued and of the assignees thereof when the fact of assignment is made known to such clerk. Assignments of such contractor's certificates shall be invalid unless recorded in the office of the clerk of the municipality and the fact of such recording be indorsed on said certificate. Upon final payment of the certificate, the same shall be delivered to the treasurer of the municipality and by him delivered to such clerk. On the first of each month, to and including December 1, the treasurer shall certify to the clerk a detailed statement of all payments made on such certificates.

(c) After the expiration of 90 days from the date of such certificate or any general obligation-local improvement bond or special assessment B bond hereinafter provided for, the same shall be conclusive evidence of the legality of all proceedings up to and including the issue thereof and prima facie evidence of the proper construction of the improvement.

(d) If said certificates are not paid before December 1 in the year in which they are issued, the comptroller or clerk of the municipality shall thereupon include in the statement of special assessments to be placed in the next tax roll an amount sufficient to pay such certificates, with interest thereon at the rate of 6 per cent per annum from the date of such certificates to January 1 next succeeding, and thereafter the same proceedings shall be had as in the case of general property taxes, except as in this section otherwise provided. Such delinquent taxes shall be returned to the county treasurer in trust for collection and not for credit. All moneys collected by the municipal treasurer or by the county treasurer and remitted to the municipal treasurer on account of such special assessments and all the tax certificates issued to the county on the sale of the property for such special assessment, if the same is returned delinquent, shall be delivered to the owner of the contractor's certificate on demand.

(7) ANNUAL INSTALMENTS OF SPECIAL ASSESSMENTS. (a) The governing body of any municipality may provide that special assessments levied to defray the cost of any public improvement, except sprinkling or oiling streets, may be paid in annual instalments.

(b) The first instalment shall include a proportionate part of the principal of the special assessment, determined by the number of instalments, together with interest on the whole assessment at a rate not exceeding 6 per cent per annum and from such date, not prior to the date of the notice hereinafter provided for, and to such date, not later than December 31, in the year in which same is to be collected as shall be determined by the governing body, and each subsequent instalment shall include a like proportion of the principal and one year's interest upon the unpaid portion of such assessment.

(c) The first instalment shall be entered in the first tax roll prepared after said instalments shall have been determined as a special tax on the property upon which the special assessment was levied, and thereafter this tax shall be treated in all respects as any other municipal tax, except as in this section otherwise provided. One of the subsequent instalments shall be entered in a like manner and with like effect in each of the annual tax rolls thereafter until all are levied.

(d) If any instalment so entered in the tax roll shall not be paid to the municipal treasurer with the other taxes it shall be returned to the county as delinquent and accepted and collected by the county in the same manner as delinquent general taxes on real estate, except as in this section otherwise provided.

(e) Whenever the governing body shall determine to permit any special assessments for any local improvements to be paid in instalments it shall cause a notice to be published in the official paper, if the municipality has one, otherwise it shall cause such

notice to be posted in 3 public places in such municipality. Such notice shall be substantially in the following form:

INSTALMENT ASSESSMENT NOTICE.

Notice is hereby given that a contract has been (or is about to be) let for (describe the improvement) and that the amount of the special assessment therefor has been determined as to each parcel of real estate affected thereby and a statement of the same is on file with the .... clerk; it is proposed to collect the same in .... instalments, as provided for by section 66.54 of the Wisconsin statutes, with interest thereon at .... per cent per annum; that all assessments will be collected in instalments as above provided except such assessments on property where the owner of the same shall file with the .... clerk within 30 days from date of this notice a written notice that he elects to pay the special assessment on his property, describing the same, to the .... treasurer on or before the next succeeding December 1. If, after making such election, said property owner shall fail to make the payment to the .... treasurer, the .... clerk shall place the entire assessment on the next succeeding tax roll.

Dated ....

Clerk of (name of municipality)

(f) After the time for making such election shall have expired, any assessment may be paid in full before due, only upon the payment of such portion of the interest to become due thereon as the governing body shall determine.

(g) A schedule of the assessments and instalments thereof shall be recorded in the office of the clerk of the municipality forthwith.

(h) All special assessments and instalments of special assessments which are returned to the county as delinquent by any municipal treasurer pursuant to this section shall be accepted by the county in accordance with the provisions of this section, shall be set forth in a separate column of the delinquent return and shall be plainly distinguished in such return from special assessments or instalments of special assessments issued under laws in effect on and prior to June 30, 1943 which shall continue to be returned as provided in section 62.21.

(8) SPECIAL ASSESSMENT BONDS, INSTALMENTS. In order to provide immediately the cash for the payment of the cost of any public improvement, the municipality may issue bonds payable in instalments of like number as the instalments of the underlying special assessment levied to pay for such public improvement. Such bonds may be:

(a) General obligation-local improvement bonds.

(b) Special assessment B bonds.

(9) GENERAL OBLIGATION-LOCAL IMPROVEMENT BONDS. (a) For the purpose of anticipating the collection of special assessments payable in instalments as provided in this section and after such instalments have been determined, the governing body may issue general obligation-local improvement bonds as more particularly described in this subsection.

(b) The issue of such bonds shall be in an amount not to exceed the aggregate unpaid special assessments levied for the public improvement which such issue is to finance. A single issue of such bonds may be used to finance one or more different local improvements for which special assessments are authorized to be made in the same year. The provisions of sections 67.035, 67.06, 67.07, 67.08 and 67.11, where not contrary to the provisions of this section, shall be applicable to such bonds. Such bonds shall mature in the same number of instalments as said special assessments, but the date of maturity of each instalment of said bonds shall be fixed in October, November or December. The first maturity of such bonds may be in the second year following the date of levy of the first instalment of the underlying special assessment. At the time of the authorization of such bonds, the governing body of the municipality shall levy a tax upon all the taxable property of said municipality sufficient to provide for the payment of the principal and interest of said bonds at maturity, which tax levy shall be irrepealable. All collections of instalments of the special assessments levied to pay for such public improvement, either before or after delinquency thereof, shall be placed by the municipal treasurer in a special sinking fund, designated and identified for such issue of such bonds, and shall be used only for the payment of said bonds and interest of such issue. The annual instalment of the irrepealable tax levied for the purpose of payment of such bonds and interest thereon, shall be diminished by the amount on hand in such sinking fund on November 1 of each tax levy year after deducting any unpaid interest and principal due in that year, and said amount so on hand in said fund shall be applied to the payment of the next succeeding instalment of principal and interest named on said bonds. Any deficiency in the sinking fund for the payment of such bonds and interest thereon at maturity shall be paid out of the general fund of

the municipality and such general fund shall be reimbursed from the collection of such part of the aforesaid irrepealable tax as is actually levied. Any surplus in said sinking fund after all bonds and interest thereon are fully paid, shall be paid into the general fund.

(c) If any instalment of the aforesaid special assessment so entered in the tax roll shall not be paid to the municipal treasurer with the other taxes, it shall be returned to the county treasurer as delinquent in trust for collection. If the tax sale certificate resulting from the sale of said delinquent special assessment is bid in at the annual county tax sale by any person, firm or corporation other than the county, the county treasurer shall pay to the municipality the full amount received therefor, including interest, and the municipal treasurer shall thereupon pay the amount of such remittance into such special sinking fund for the redemption of such bonds.

(d) If at any sale of taxes by the county treasurer no bid by any person, firm or corporation shall be made for any lot or parcel of land subject to special assessment which was returned to the county treasurer as delinquent, pursuant to paragraph (c) hereof, and said land is bid in by the county, the tax sale certificate evidencing the sale of said land may thereafter upon request therefor by the municipal treasurer duly authorized by the governing body of the municipality, which returned said special assessment as delinquent, be assigned to said municipality in its corporate name, and thereupon said municipality shall be vested with the same rights as are other tax sale certificate purchasers or owners, including the right to take a tax deed in its name, except as in this section otherwise provided.

(e) Whenever such a certificate shall have been so acquired by any municipality, the governing body thereof, to protect its interest, may authorize and direct its treasurer to bid in and become the exclusive purchaser in the corporate name of such municipality of such land at any sale of the same by the county treasurer for any tax or tax lien, and the said municipality shall be vested with the same rights as are other purchasers, except as in this section otherwise provided, and provided further that said municipality shall, before becoming the exclusive purchaser of said land for delinquent taxes or special assessment taxes, purchase, redeem, or acquire by assignment, any outstanding tax sale certificates of date equal or subsequent to the certificate of tax sale held by the municipality, upon which it bases its right to become such exclusive purchaser. When a tax deed shall be issued to such municipality, the deed may be issued in the same manner in which tax deeds are issued to individuals. The land covered by said deed shall be exempt from further general property taxes until May 1 following the date on which the same is sold by the municipality taking the tax deed and until such sale the municipal clerk shall annually, before May 1, furnish the assessor of said municipality a list of the lands of such municipality exempt from taxation under this paragraph, and such assessor shall mark said lands exempt.

(10) SPECIAL ASSESSMENT B BONDS. (a) For the purpose of anticipating the collection of special assessments payable in instalments, as provided in this section and after said instalments have been determined, the governing body may issue special assessment B bonds payable out of the proceeds of such special assessments as provided in this section. Such bonds shall in no event be a general municipal liability.

(b) The issue of such bonds shall be in an amount not to exceed the aggregate unpaid special assessments levied for the public improvement which such issue is to finance. A separate bond shall be issued for each separate assessment and said bond shall be secured by and be payable out of only the assessment against which it is issued. Such bonds shall mature in the same number of instalments as said special assessments. Such bonds shall carry coupons equal in number to the number of special assessments, which coupons shall be detachable and entitle the owner thereof to the payment of principal and interest collected on the underlying special assessments. Such bond shall be signed by the chief executive and the clerk of the municipality and the corporate seal of the municipality shall be affixed thereto and the bond shall contain such recitals as may be necessary to show that it is payable only out of the special assessment on the particular property against which it is issued and the purpose for which same was levied and such other provisions as the governing body shall deem proper to insert.

(ba) Payments of principal and interest shall conform as nearly as may be to the payments to be made on the instalments of the assessment, and the principal and interest to be paid on the bonds shall not exceed the principal and interest to be received, on the assessment. All collections of instalments of the special assessments levied to pay for such public improvement, either before or after delinquency thereof shall be placed by the municipal treasurer in a special sinking fund designated and identified for such issue of bonds and shall be used only for the payment of said bonds and interest of such issue. Any surplus in said sinking fund after all bonds and interest thereon are fully paid, shall be paid into the general fund.

(c) Such bonds must be registered in the name of the owner thereof on the records of the clerk of the municipality by which said bonds were issued. Upon transfer of the ownership of such bonds the fact of such transfer must be noted upon the bond and on the record of the clerk of such municipality. Any transfer not so recorded shall be null and void and the clerk of the municipality shall be entitled to make payments of principal and interest to the owner of the bond as registered on the books of the municipality.

(d) Principal and interest collected on the underlying special assessments as well as interest collected on the delinquent special assessments and on delinquent tax certificates issued therefor shall be paid by the treasurer of the municipality out of the sinking fund created for the issue of such bonds to the registered holder thereof upon the presentation and surrender of the coupons due attached to said bonds. Whenever such underlying special assessment is not paid and the same is struck off to the county at the tax sale, the registered owner of the bond may surrender his coupon to the county treasurer who thereupon shall assign to him the tax sale certificate underlying such special assessment. If any instalment of the aforesaid special assessment entered in the tax roll shall not be paid to the municipal treasurer with the other taxes, it shall be returned to the county treasurer as delinquent in trust for collection.

(e) If the tax sale certificate resulting from the sale of said delinquent special assessment is bid in at the county tax sale, or redeemed subsequent to the tax sale by any person, firm or corporation other than the county, the county treasurer shall pay to the municipality, the full amount received therefor, including interest, and the municipal treasurer shall thereupon pay the amount of such remittance into a special sinking fund created for the payment of such special assessment B bonds.

(11) AREA GROUPING OF SPECIAL ASSESSMENTS. Whenever the governing body determines to issue general obligation-local improvement bonds pursuant to subsection (9) of this section, it may group the special assessments levied against benefited lands and issue such bonds against such special assessments so grouped as a whole. All such bonds shall be equally secured by such assessments without priority one over the other.

(12) DISPOSITION OF SPECIAL ASSESSMENT PROCEEDS WHERE IMPROVEMENT PAID FOR OUT OF GENERAL FUND OR BONDS ISSUED UNDER SECTION 67.04. Whenever special assessments are levied for any public improvements, all amounts collected on such special assessments or received from the county shall be placed in the general fund of the municipality in case the payment for the improvement was made out of its general fund, or in the sinking fund required for the payment of bonds issued under section 67.04 if such improvement was paid out of the proceeds thereof. Such special assessments, when delinquent, shall be returned in trust for collection and the municipality shall have the same rights as provided in subsection (9) (c), (d) and (e).

(13) LIEN OF TAX SALE CERTIFICATES. The lien of any tax sale certificate issued pursuant to this section shall be superior to the lien of all tax sale certificates of prior date but shall be subordinate to the lien of all general property tax sale certificates of the same or a subsequent date not outlawed by limitation. The limitation prescribed by section 75.20 as to tax sale certificates issued to and owned by counties and municipalities shall apply as to all tax sale certificates issued pursuant to the terms of this section to any municipality as defined in subsection (1) (a).

(14) PAYMENT REQUIRED TO OBTAIN TAX DEED. At the time of obtaining a tax deed on a tax certificate based on a special assessment levied under the provisions of section 66.54, the applicant therefor shall be required to pay to the county treasurer a sum equal to the principal amount of city, village or town general and school taxes included in all tax certificates not outlawed by limitation held by the county treasurer, and dated prior to the special tax certificates on which the tax deed is applied for. The county treasurer shall apply such payments as a partial redemption of such respective tax certificates.

(15) SINKING FUND FOR SPECIAL ASSESSMENT B BONDS. Whenever the governing body determines to issue special assessment B bonds pursuant to subsection (10), it may establish in its treasury a fund not less than 15 per cent of the amount of special assessment instalments, due and collectible, for the installation of that particular special improvement. Such fund is to be designated as a sinking fund for the particular bond issue, and shall be maintained until such indebtedness is paid or otherwise extinguished. Any surplus in the sinking fund after all the bonds have been paid or canceled shall be carried into the general fund of the municipal treasury. The source of said fund shall be established either from the general fund of the municipal treasury or by the levy of an irrepealable and irrevocable general tax. Such bonds shall in no event be a general municipal liability.

History: 1955 c. 62.

66.60 Special assessments and charges. (1) (a) As a complete alternative to all other methods provided by law, any city or village may, by resolution of its governing body, levy and collect special assessments upon property in a limited and determinable area for special benefits conferred upon such property by any municipal work or improvement; and may provide for the payment of all or any part of the cost of the work or improvement out of the proceeds of such special assessments.

(b) The amount assessed against any property for any work or improvement which does not represent an exercise of the police power shall not exceed the value of the benefits accruing to the property therefrom, and for those representing an exercise of the police power, the assessment shall be upon a reasonable basis as determined by the governing body of the city or village.

(2) Prior to the exercise of any powers conferred by this section, the governing body shall declare by preliminary resolution its intention to exercise such powers for a stated municipal purpose. Such resolution shall describe generally the contemplated purpose, the limits of the proposed assessment district, the number of instalments in which the special assessments may be paid, and direct the proper municipal officer or employe to make a report thereon. Such resolution may limit the proportion of the cost to be assessed.

(3) The report required by sub. (2) shall consist of:

(a) Preliminary or final plans and specifications.

(b) An estimate of the entire cost of the proposed work or improvement.

(c) An estimate, as to each parcel of property affected, of:

1. The assessment of benefits to be levied.

2. The damages to be awarded for property taken or damaged.

3. The net amount of such benefits over damages or the net amount of such damages over benefits.

(d) A statement that the property against which the assessments are proposed is benefited, where the work or improvement constitutes an exercise of the police power. In such case the estimates required under par. (c) shall be replaced by a schedule of the proposed assessments.

(4) A copy of the report when completed shall be filed with the municipal clerk for public inspection.

(5) The cost of any work or improvement to be paid in whole or in part by special assessment on property may include the direct and indirect cost thereof, the damages occasioned thereby, the interest on bonds or notes issued in anticipation of the collection of the assessments, a reasonable charge for the services of the administrative staff of the city or village and the cost of any architectural, engineering and legal services, and any other item of direct or indirect cost which may reasonably be attributed to the proposed work or improvement. The amount to be assessed against all property for any such proposed work or improvement shall be apportioned among the individual parcels in the manner designated by the governing body.

(6) If any property deemed benefited shall by reason of any provision of law be exempt from assessment therefor, such assessment shall be computed and shall be paid by the city or village.

(6a) A parcel of land against which has been levied a special assessment for the sanitary sewer or water main laid in one of the streets upon which it abuts, shall be entitled to such deduction or exemption as the governing body determines to be reasonable and just under the circumstances of each case, when a special assessment is levied for the sanitary sewer or water main laid in the other street upon which such corner lot abuts. The governing body may allow a similar deduction or exemption from special assessments levied for any other public improvement.

(7) Upon the completion and filing of the report required by sub. (3) the city or village clerk shall cause notice to be given stating the nature of the proposed work or improvement, the general boundary lines of the proposed assessment district including, in the discretion of the governing body, a small map thereof, the place and time at which the report may be inspected, and the place and time at which all persons interested, or their agents or attorneys, may appear before the governing body and be heard concerning the matters contained in the preliminary resolution and the report. Such notice shall be given either by publication of a copy of the notice at least once in a newspaper published or having a general circulation in such city or village, or such notice shall be posted in not less than 5 public places within the city or village of which at least 3 shall be within the assessment district and a copy of such notice shall be mailed to every interested person whose post-office address is known, or can with reasonable diligence be ascertained, at least 10 days before the hearing or proceeding. The hearing shall commence not less than 10 and not more than 40 days after the publication or posting as provided in this subsection.

(8) (a) After the hearing upon any proposed work or improvement, the governing body may approve, disapprove or modify, or it may rerefer the report prepared pursuant to subs. (2) and (3) to the designated officer or employe with such directions as it deems necessary to change the plans and specifications and to accomplish a fair and equitable assessment.

(b) If an assessment of benefits be made against any property and an award of compensation or damages be made in favor of the same property, the governing body shall assess against or award in favor thereof only the difference between such assessment of benefits and the award of damages or compensation.

(c) When the governing body finally determines to proceed with the work or improvement, it shall approve the plans and specifications therefor and adopt a resolution directing that such work or improvement be carried out in accordance with the report as finally approved and that payment therefor be made as therein provided.

(d) The city or village clerk shall publish the final resolution in a newspaper published or having a general circulation in said city or village, or such resolution shall be posted in not less than 5 public places within the city or village, of which at least 3 shall be within the assessment district and a copy of such resolution shall be mailed to every interested person whose post-office address is known, or can with reasonable diligence be ascertained.

(e) Upon the publication or posting of this final resolution, any work or improvement provided for therein shall, subject to the provisions of this section, be deemed legally authorized and all awards of damages or compensation and assessments so provided for shall be deemed duly and legally made, subject to the right of appeal provided for in sub. (12).

(9) Where more than a single type of project is undertaken as part of a general improvement affecting any property, the governing body may finally combine the assessments for all purposes as a single assessment on each property affected, provided that each property owner shall be enabled to object to any such assessment for any single purpose or for more than one purpose.

(10) Whenever the actual cost of any project shall, upon completion or after the receipt of bids, be found to vary materially from the estimates, or whenever any assessment is void or invalid for any reason, or whenever the governing body shall determine to reconsider and reopen any assessment, it is empowered, after giving notice as provided in sub. (7) and after a public hearing, to amend, cancel or confirm any such prior assessment, and thereupon notice of the resolution amending, canceling or confirming such prior assessment shall be given by the clerk as provided in sub. (8) (d).

(11) If the cost of the project shall be less than the special assessments levied, the governing body, without notice or hearing, shall reduce each special assessment proportionately and where any assessments or instalments thereof have been paid the excess over cost shall be applied to reduce succeeding unpaid instalments, where the property owner has elected to pay in instalments, or refunded to the property owner.

(12) (a) If any person having an interest in any parcel of land affected by any determination of the governing body, pursuant to subs. (8) (c), (10) or (11), feels himself aggrieved thereby he may, within 40 days after the date of the notice or of the publication of the final resolution pursuant to sub. (8) (d), appeal therefrom to the circuit court of the county in which such property is situated by causing a written notice of appeal to be served upon the clerk of such city or village and by executing a bond to the city or village in the sum of $150 with 2 sureties or a bonding company to be approved by the city or village clerk, conditioned for the faithful prosecution of such appeal and the payment of all costs that may be adjudged against him. The clerk, in case such appeal is taken, shall make a brief statement of the proceedings had in the matter before the governing body, with its decision thereon, and shall transmit the same with the original or certified copies of all the papers in the matter to the clerk of the circuit court.

(b) Such appeal shall be tried and determined in the same manner as cases originally commenced in such court, and costs awarded as provided in s. 62.25 (1) (d).

(c) In case any contract has been made for making the improvement such appeal shall not affect such contract, and certificates or bonds may be issued in anticipation of the collection of the entire assessment for such improvement, including the assessment on any property represented in such appeal as if such appeal had not been taken.

(d) Upon appeal pursuant to this subsection, the court may, based upon the improvement as actually constructed, render a judgment affirming, annulling or modifying and affirming, as modified, the action or decision of the governing body. If the court finds that any assessment or any award of damages is excessive or insufficient, such assessment or award need not be annulled, but the court may reduce or increase the assessment or award of damages and affirm the same as so modified.

(e) An appeal under this subsection shall be the sole remedy of any person aggrieved

by a determination of the governing body, whether or not the improvement was made according to the plans and specifications therefor, and shall raise any question of law or fact, stated in the notice of appeal, involving the making of such improvement, the assessment of benefits or the award of damages or the levy of any special assessment therefor. The limitation provided for in par. (a) shall not apply to appeals based upon fraud or upon latent defects in the construction of the improvement discovered after such period.

(f) It shall be a condition to the maintenance of such appeal that any assessment appealed from shall be paid as and when the same or any instalments thereof become due and payable, and upon default in making such payment, any such appeal shall be dismissed.

(15) Every special assessment levied under this section shall be a lien on the property against which it is levied on behalf of the municipality levying same or the owner of any certificate, bond or other document issued by public authority, evidencing ownership of or any interest in such special assessment, from the date of the determination of such assessment by the governing body. The governing body shall provide for the collection of such assessments and may establish penalties for payment after the due date. The governing body shall provide that all assessments or instalments thereof which are not paid by the date specified shall be extended upon the tax roll as a delinquent tax against the property and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such special assessment, except as otherwise provided by statute.

(16) (a) In addition to all other methods provided by law, special charges for current services rendered may be imposed by the governing body by allocating all or part of the cost to the property served. Such may include, without limitation because of enumeration, snow and ice removal, weed elimination, street sprinkling, oiling and tarring, repair of sidewalks or curb and gutter, garbage and refuse disposal, sewer service and tree care. The provision for notice of such charge shall be optional with the governing body except that in the case of street oiling or tarring and the repair of sidewalks, curb or gutters, 20 days' notice shall be given in a newspaper published or having a general circulation in the city or village, or by posting notice in 5 public places in the city or village and a copy of such notice shall be mailed to every interested person whose post-office address is known, or can with reasonable diligence be ascertained, at least 10 days before the hearing or proceeding. Such notice shall specify that on a certain date a hearing will be held by the governing body as to whether the service in question shall be performed at the cost of the property owner, at which hearing anyone interested will be heard.

(b) Such special charges shall not be payable in instalments. If not paid within the period fixed by the governing body, such a delinquent special charge shall become a lien as provided in sub. (15) as of the date of such delinquency, and shall automatically be extended upon the current or next tax roll as a delinquent tax against the property and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such special charge.

(c) Subsection (2) shall not be applicable to proceedings under this subsection.

(17) If any special assessment or special charge levied pursuant to this section shall be held invalid because such statutes shall be found to be unconstitutional, the governing body of such municipality may thereafter reassess such special assessment or special charge pursuant to the provisions of any applicable law.

(18) The governing body of any city or village may, without any notice or hearing, levy and assess the whole or any part of the cost of any municipal work or improvement as a special assessment upon the property specially benefited thereby whenever notice and hearing thereon is in writing waived by all the owners of property affected by such special assessment.

History: 1951 c. 261 s. 10; 1951 c. 534; 1953 c. 429; 1955 c. 560; 1957 c. 130, 610 s. 47, 663.

See note to 62.18, citing Wisconsin Electric Power Co. v. Milwaukee, 275 W 121, 81 NW (2d) 298.

Although future benefits to the property may be considered in sustaining the validity of a special assessment against property for public improvements, benefits arising from improvements which depend on contingent future action of public authorities should not be considered in assessing benefits. The benefits necessary to sustain a special assessment must be substantial, certain, and capable of being realized within a reasonable time; but the fact that property will receive no present benefit in the sense of actual use of the improvement will not defeat the assessment if benefits are sure to be realized in a reasonable time in the future. Wm. H. Heinemann Creameries v. Kewaskum, 275 W 636, 82 NW (2d) 902.

66.605 Special assessments. Notwithstanding any other provision of the statutes, the due date of any special assessment levied against property abutting on or benefited by a public improvement may be deferred on such terms and in such manner as prescribed by its governing body while no use of the improvement is made in connection with the property except in cities of the first class the deferment shall extend only while the

property remains unplatted and is used by the owner for farming or agricultural purposes. Such special assessment must be paid within 10 years of the date of the resolution making the levy. Any such special assessment shall be a lien against the property from the date of the levy.

History: 1953 c. 407; 1955 c. 426.

66.615 Sidewalks. (1) PART OF STREET; OBSTRUCTIONS. The streets shall be divided into a carriageway and a sidewalk on each side thereof; the sidewalk shall be for the use of persons on foot, and no person shall be allowed to encumber the same with boxes or other material; but such sidewalk shall be kept clear for the uses specified herein.

(2) GRADE. In all cases where the grades of sidewalks shall not have been specially fixed by ordinance the sidewalks shall be laid to the established grade of the street.

(3) CONSTRUCTION AND REPAIR. (a) *Authority of council.* The council may from time to time by ordinance or resolution establish the width, determine the material and prescribe the method of construction of standard sidewalks, and the standard so fixed may be different for different streets, and may order by ordinance or resolution sidewalks to be laid in the manner provided in this subsection.

(b) *Board of public works.* The board of public works may order any sidewalk which is unsafe, defective or insufficient to be repaired or removed and replaced with a sidewalk in accordance with the standard fixed by the council.

(c) *Notice.* A copy of the ordinance, resolution or order directing such laying, removal, replacement or repair shall be served upon the owner of each lot or parcel of land in front of which such work shall have been ordered, by the board of public works, or by the street commissioner if the council shall request him to make such service, by personally delivering the same to the owner or his agent, and in case the owner or his agent cannot be found in the city by publishing in the official newspaper.

(d) *Default of owner.* Whenever any such owner shall neglect for a period of 20 days after such service to lay, remove, replace or repair any such sidewalk the city may cause such work to be done at the expense of such owner. All work for the construction of sidewalks shall be let by contract to the lowest responsible bidder except as provided in s. 62.15 (1).

(e) *Minor repairs.* When the cost of repairs of any sidewalk in front of any lot or parcel of land shall not exceed the sum of $10, the board of public works, or street commissioner if so required by the council, may immediately repair such sidewalk, without notice or letting the work by contract, and charge the cost thereof to the owner of such lot or parcel of land, in the manner provided in this section.

(f) *Expense.* The board of public works shall keep an accurate account of the expenses of laying, removing and repairing sidewalks in front of each lot or parcel of land whether the work be done by contract or otherwise, and report the same to the comptroller who shall annually prepare a statement of the expense so incurred in front of each lot or parcel of land and report the same to the city clerk, and the amount therein charged to each lot or parcel of land shall be by such clerk entered in the tax roll as a special tax against said lot or parcel of land, and the same shall be collected in all respects like other taxes upon real estate. The council may provide that the street commissioner shall perform the duties imposed by this section on the board of public works.

(5) SNOW AND ICE. The board of public works shall keep the sidewalks of the city clear of snow and ice in all cases where the owners or occupants of abutting lots fail to do so, and the expense of so doing in front of any lot or parcel of land shall be included in the statement to the comptroller required by sub. (3) (f), and in his statement to the city clerk and in the special tax to be levied as therein provided. The city may also impose a fine or penalty for neglecting to keep sidewalks clear of snow and ice.

(6) REPAIR AT CITY EXPENSE. Whenever the council shall by resolution or ordinance so determine, sidewalks shall be kept in repair by and at the expense of the city, or the council may direct that a certain proportion of the cost of construction, reconstruction or repair be paid by the city and the balance by abutting property owners.

(7) RULES. The council may from time to time make all needful rules and regulations by ordinance for carrying the aforesaid provisions into effect, for regulating the use of the sidewalks of the city and preventing their obstruction.

(10) The provisions of this section shall not apply to cities of the first class but shall be applicable to villages and when applied to villages:

(a) "City" means village.

(b) "Council" means village board.

(c) "Board of public works" means the committee or officer designated to handle street or sidewalk matters.

(d) "Comptroller" means clerk.

History: 1953 c. 233; 1957 c. 131.

Neither (5) nor an ordinance requiring property owners to shovel their walks creates any liability on the owner or occupant to a person who falls on a rough or slippery walk made so by natural causes. Walley v. Patake, 271 W 530, 74 NW (2d) 130.

The responsibility of care and maintenance of a public sidewalk in a city rests on the municipality. Miller v. Welworth Theatres, 272 W 355, 75 NW (2d) 386.

Whether a particular use of a public sidewalk, other than for persons on foot, such as for the temporary deposit of goods, is reasonable and necessary is for the jury in an action for injuries sustained as the alleged result of such particular use, since all of the facts and circumstances which affect the situation are to be considered. Paulson v. Madison Newspapers, 274 W 355, 80 NW (2d) 421.

66.62 Special assessments. (1) In addition to other methods provided by law, the common council of any city of the second, third or fourth class, or the village board of any village, may by ordinance provide that the cost of installing, constructing or laying storm sewers wholly or partially in any street, alley or highway, or in any lot or parcel of land, sanitary sewers, water mains, paving or any other public improvement to be installed along or in any street, alley or highway, or across or in any lot or parcel of land in such city or village, shall be charged in whole or in part to the property benefited thereby, and to make an assessment against such property in such manner as such council or village board may determine.

(2) Every such ordinance shall contain provisions for reasonable notice and hearing. Any person against whose land a special assessment is levied under any such ordinance shall have the right to appeal therefrom in the manner prescribed in s. 66.60 (12) within 40 days of the date of the final determination of the governing body.

History: 1957 c. 131.

66.625 Laterals and service pipes. Whenever the governing body shall by resolution require water, heat, sewer and gas laterals or service pipes to be constructed from the lot line or near the lot line to the main or from the lot line to the building to be serviced, or both, it may provide that when the work is done by the city or village or under a city or village contract, a record of the cost of constructing such laterals or service pipes shall be kept and such cost, or the average current cost of laying such laterals or service pipes, shall be charged and be a lien against the lot or parcel served.

History: 1957 c. 131.

66.63 Assessment of condemnation benefits. (1) As a complete alternative to any other method provided by law, for the purpose of payment of the expenses, including such excess of damages and all other expenses and costs incurred for the taking of private property for the purpose set forth in ss. 32.02 (1), 61.34 (3) and 62.22, the governing body of the town, city or village may, by resolution, levy and assess the whole or any part of such expenses, as a special assessment upon such property as they determine is specially benefited thereby, and they shall include in said levy the whole or any part of the excess of benefits over total damages, if any, making therein a list of every lot or parcel of land so assessed, the name of the owner thereof, if known, and the amount levied thereon.

(2) Such resolution shall be published once in each week for 2 weeks in a newspaper published or in general circulation in such town, city or village, or if there is no such newspaper 3 copies thereof shall be posted by the clerk in 3 public places therein, and a notice therewith that at a time stated therein, the governing body will meet at their usual place of meeting and hear all objections which may be made to such assessment or to any part thereof. If such resolution levies an assessment against property outside the corporate limits, notice as provided herein shall be given by mailing a copy of the resolution and the notice by registered mail to the last known address of the owner of such property. A copy of such resolution shall be filed with the clerk of the town in which the property is located.

(3) At the time so fixed the governing body shall meet and hear all such objections, and for that purpose may adjourn to a date set by the governing body, until the hearing is completed, and shall by resolution confirm or modify such assessment in whole or in part. At any time before the first day of November thereafter any party liable may pay any such assessment to the town, city or village treasurer. On such first day of November, if any such assessment remains unpaid, the treasurer shall make a certified statement showing what assessments so levied remain unpaid, and file the same with the clerk, who shall extend the same upon the tax roll of such municipality, in addition to and as part of all other taxes therein levied on such land, to be collected therewith.

(4) At the time of making out the tax roll, next after the filing of any assessment to pay the expenses incurred in proceedings for the condemnation of lands outside the corporate limits, the town clerk shall enter in said roll the benefits not offset by damages or

an excess of benefits over damages which shall be levied on the land described as a special assessment and shall be collected the same as other taxes. Such amounts when collected shall be paid over to the city or village treasurer to be applied in payment of any damages or excess of damages over benefits awarded by such assessment; and in case the amount of such special assessments are insufficient to pay all damages or excess of damages over benefits so awarded, then the difference shall be paid by the city or village. Any such damages or excess of damages over benefits may be paid out of such fund prior to the collection of such special assessments, to be reimbursed therefrom when collected.

(5) Any person against whose land an assessment of benefits is made pursuant to this section may appeal therefrom in the manner prescribed in s. 32.11 within 30 days of the adoption of the resolution required under sub. (3).

History: 1957 c. 131.

66.635 Reassessment of invalid condemnation and public improvement assessments. (1) If in any action other than an action pursuant to s. 66.60 (12), for the recovery of damages arising from a failure to make a proper assessment of benefits and damages, as provided by law, or failure to observe any provision of law, or because of any act or defect in any proceeding in which benefits and damages are assessed, and in any action to set aside any special assessment, special assessment certificate, bond or note, tax sale or tax-sale certificate based upon such special assessment, the court determines that such assessment is invalid by reason of a defective assessment of benefits and damages, or for any cause, it shall stay all proceedings, frame an issue therein and summarily try the same and determine the amount which the plaintiff justly ought to pay or which should be justly assessed against the property in question. Such amount shall be ordered to be paid into court for the benefit of the parties entitled thereto within a time to be fixed. Upon compliance with said order judgment shall be entered for the plaintiff with costs. If the plaintiff fails to comply with such order the action shall be dismissed with costs.

(2) If the common council or village board determines that any special assessment is invalid for any reason, it may reopen and reconsider such assessment as provided in s. 66.60 (10).

History: 1957 c. 131.

Where a court declares a special assessment invalid, the city could reassess the benefits against the property even though there was a total failure to comply with procedural requirements before making the improvement. If the owner is protected against an excessive assessment, his rights are not impaired by the statutory waiver of procedural steps. Extrom v. Tomahawk, 257 W 348, 43 NW (2d) 357.

66.64 Special assessments for local improvements. The property of every county, city, village, town, school district, sewerage district or commission, sanitary or water district or commision, or any public board or commission within this state, and of every corporation, company or individual operating any railroad or street railway, telegraph, telephone, electric light or power system, or doing any of the business mentioned in ch. 76, and of every other corporation or company whatever, shall be in all respects subject to all special assessments for local improvements and certificates and improvement bonds therefor may be issued and the lien thereof enforced against such property in the same manner and to the same extent as the property of individuals. Provided that such assessments shall not extend to the right, easement or franchise to operate or maintain railroads, street railways, telegraph, telephone or electric light or power systems in streets, alleys, parks or highways. The amount represented by any certificate or improvement bond issued as aforesaid shall be a debt due personally from such corporation, company or individual, payable in the case of a certificate when the taxes for the year of its issue are payable, and in the case of a bond according to the terms thereof.

History: 1957 c. 131.

66.645 Duty of officers; action to collect tax. (1) The officers now authorized by law to collect and receive the same from individuals shall have full power to receive and collect all such special assessments in the same manner as the same are now collected from individuals, and in addition thereto such officers shall have power at the direction of the proper authorities of the city or village making such special assessments, upon the nonpayment of any such special assessments by any corporation, company, or individual mentioned in s. 66.64 within the time now limited by law for the payment of such special assessments by individuals, or in the case of a county, city, village, town, and school district, after the time now prescribed by law in the case of other claims, to institute and prosecute an action to collect the same in the name and at the cost of such city or village. A like action may be maintained by the owner or holder of any special assessment certificate or improvement bond issued as aforesaid in his own name and at his own cost. In such action, when brought in the name of such city or village, it shall be sufficient to allege that the defendant is indebted upon a special assessment, specifying the amount due and the date of the warrant issued for the collection of the same, and when brought by such

owner or holder, to set up a copy of such certificate or bond, specify the amount due and when payable, and allege that the defendant is liable therefor. On the trial of such action, when brought in the name of the city or village, the production of the proper warrant for the collection of such assessment together with the tax roll or list showing the amount thereof; and when brought by such owner or holder, the production of such certificate or improvement bond, tax roll, or list showing the amount thereof and warrant for its collection shall be prima facie evidence of the correctness and validity of such assessment, certificate, or improvement bond and of the liability of the defendant for the amount thereof and interest thereon from the time the same became payable. Any judgment recovered in such action shall be collected in the manner now prescribed for the collection of judgments against such defendant. In counties having a population of 500,000 or more the provisions of this section shall apply also to towns and town officers.

(2) Any county treasurer to whom special assessments for improvements are returned may likewise institute and prosecute an action to collect the same in the name of the county when authorized to do so by the county board of supervisors.

History: 1955 c. 488; 1957 c. 131, 560.

66.694 Special assessments against railroad for street improvement. (1) Whenever any city or village in this state shall cause any street, alley or public highway within its corporate limits to be improved by grading, curbing, paving or otherwise improving the same, where the cost of such improvement, or a part thereof, shall be assessed against abutting property, and such street, alley or public highway is crossed by the track or tracks of any railroad, operated in whole or in part by steam power, and engaged as a common carrier, the common council or board of public works of such city, or the trustees of such village shall at any time after the completion and acceptance of such improvement by the municipality, cause to be filed with the local agent of the railroad corporation operating such railroad, a statement showing the amount chargeable to such railroad corporation for such improvement, which shall be an amount equal to the cost of constructing said improvement along said street, alley or public highway immediately in front of and abutting its right of way on each side of said street, alley or public highway, based upon the price per square yard, lineal foot or other unit of value uesd in determining the total cost of said improvement.

(2) The amount so charged against any railroad corporation for improving the street, fronting or abutting its right of way, shall not exceed the average amount per front foot assessed against the remainder of the property fronting or abutting on said street, alley or public highway so improved. The amount arrived at as above set forth and contained in said statement, shall be due and payable by said railroad corporation to the said municipality, causing the same to be filed within 30 days of the date when the same shall be presented to the local representative of said railroad corporation.

History: 1957 c. 131.

66.695 Action to recover assessment. In case any railroad corporation shall fail or refuse to pay to any city or village the amount set forth in any such statement or claim for the making of street improvements, as provided in the preceding section, within the time therein specified, said city or village shall have a valid claim for such amount against said railroad corporation, and may maintain an action therefor in any circuit court within this state to recover the same.

History: 1957 c. 131.

66.696 Improvement of streets by abutting railroad company. Whenever the track or tracks of any railroad, operated in whole or in part by steam power, shall be laid upon or along any street, alley or public highway within any city or village, the corporation operating such railroad or railroads shall maintain and improve such portion of the length of the street as is occupied by its tracks; and the railroad corporation shall grade, pave or otherwise improve such street or portion thereof in such manner and with such materials as the common council of such city, or the village board may by resolution or ordinance determine; provided, that the railroad corporation shall not be required to pave or improve that portion of the street, alley or public highway occupied by it with different material or in a different manner from that in which the remainder of the street is paved or improved; provided that the railroad corporation shall be liable to pay for paving, grading or otherwise improving a street only to the extent that the actual cost of such improvement shall exceed the estimated cost of such improvement were the street not occupied by the tracks of the railroad.

History: 1955 c. 280; 1957 c. 131.

66.697 Notice to railroad company; time for construction. (1) When any city or village shall have ordered any street, alley or public highway to be paved, graded, curbed or improved, as provided in the preceding section, the clerk of such city or village shall

cause to be served upon the local agent of such railroad corporation, a notice setting forth the action taken by such city or village relative to the improvement of such street.

(2) If the railroad corporation shall elect to construct said street improvement, it shall within 10 days of the receipt of said notice from the clerk of such city or village, file with said clerk a notice of its intention to construct said street improvement, and it shall be allowed until the thirtieth day of June thereafter to complete said work, unless said work is ordered after May twentieth of any year, and in that case said railroad corporation shall be allowed 40 days from the time the clerk of the municipality presents the notice to the railroad agent, in which to complete said work.

History: 1957 c. 131.

66.698 Construction by municipality; assessment of cost. (1) Whenever any city or village shall order any street, alley or public highway improved, as provided in s. 66.696, and notice shall be served on the railroad corporation, as provided in s. 66.697, and the railroad corporation shall not elect to construct the improvement as therein provided, or having elected to construct the improvement, shall fail to construct the same within the time provided in s. 66.697 the city or village shall at once proceed to let a contract for the construction of the improvement, and cause the street to be improved as theretofore determined, and when the improvement shall be completed and accepted by the city or village, the clerk of the city or village shall present to the local agent of the railroad corporation a statement of the actual cost of the improvement, and the railroad corporation shall within 20 days of such receipt thereof pay to the treasurer of such city or village the amount as shown by such statement of cost presented as aforesaid.

(2) In case any railroad corporation shall fail to pay the cost of constructing any pavement or other street improvement as herein provided, the city or village causing the same to be constructed shall have the right to enforce collection of such amount by an action at law against said railroad corporation as provided in s. 66.695.

History: 1955 c. 280; 1957 c. 131.

66.699 Effect of sections 66.694 to 66.698, inclusive. Sections 66.694 to 66.698, inclusive, shall not operate to repeal any existing law, but shall provide a method of compelling a railroad corporation to pay its proportionate share of street, alley or public highway improvements in case any city or village shall elect to follow the provisions thereof.

History: 1957 c. 131.

66.70 Political subdivisions prohibited from levying tax on incomes. No county, city, village, town, or other unit of government authorized to levy taxes shall assess, levy or collect any tax on income, or measured by income, and any such tax so assessed or levied is void.

66.80 Benefit funds for officers and employes of first class cities. (1) In all cities of the first class in this state, whether organized under general or special charter, annuity and benefit funds shall be created, established, maintained and administered (by such city) for all officers and employes of such cities, who at the time this section shall come into effect are not contributors, participants or beneficiaries in any pension fund now in operation in such city by authority of law; provided that before this section shall be in effect in any city to which it applies, it must first have been approved by a majority vote of the members elect of the common council of such city.

(2) Upon approval by a majority vote of the members of the common council of such city the common council shall create a retirement board, the members of which shall serve without compensation, which board shall have full power and authority to administer such annuity and benefit fund, and to make such rules and regulations under which all participants shall contribute to and receive benefits from such fund. The common council may provide for contribution by the city to such annuity and benefit fund.

(3) The common council of such city may provide for annuity and benefit funds for officers and employes of boards, agencies, departments, commissions and divisions of the city government, including a housing authority created under the provisions of s. 66.40.

History: 1953 c. 356; 1957 c. 610.

66.81 Exemption of funds and benefits from taxation, execution and assignment. All moneys and assets of any retirement system of any city of the first class and all benefits and allowances and every portion thereof, both before and after payment to any beneficiary, granted under any such retirement system shall be exempt from any state, county or municipal tax or from attachment or garnishment process, and shall not be seized, taken, detained or levied upon by virtue of any executions, or any process or proceeding whatsoever issued out of or by any court of this state, for the payment and ratification in whole or in part of any debt, claim, damage, demand or judgment against any member of or beneficiary under any such retirement system, and no member of or beneficiary

under any such retirement system shall have any right to assign his benefit or allowance, or any part thereof, either by way of mortgage or otherwise; however, this prohibition shall not apply to assignments made for the payment of insurance premiums.

History: 1953 c. 356; 1957 c. 610.

WISCONSIN RETIREMENT FUND

66.90 Wisconsin retirement fund. (1) PURPOSE. The purpose of this fund is to provide for the payment of annuities and other benefits to employes and to beneficiaries of employes of the state of Wisconsin and municipalities in the state, thereby enabling such employes to provide for themselves and their dependents in case of old age, disability and death, and thereby effecting economy and efficiency in the public service by furnishing an orderly means whereby employes who become aged or otherwise incapacitated may, without hardship or prejudice, be retired from active service.

(2) CREATION OF FUND. A retirement and benefit fund to be operated and maintained in accordance with ss. 66.90 to 66.918 is hereby created. This fund shall be known as the "Wisconsin retirement fund." The fund shall with respect to the accumulation of credits and the payment of annuities and benefits therefrom, be divided into 2 divisions to be known as the fixed annuity division and the variable annuity division. Each division shall be separately held, managed, administered, valued, invested, reinvested, distributed, accounted for and otherwise dealt with. Except where it is otherwise specifically provided, or where the context otherwise requires ss. 66.90 to 66.918 shall apply equally to each division of the fund. Section 66.9065 shall control with respect to the variable annuity division.

History: 1957 c. 381.

The act relating to the state employes retirement fund should be studied in its entirety and an ordinary, common-sense meaning should be given to the various sections and to the words used therein, to make them effective to carry out the general plan. State ex rel. Morse v. Christianson, 262 W 262, 55 NW (2d) 20.

66.901 Definitions. The following words and phrases as used in ss. 66.90 to 66.918, unless different meanings are plainly indicated by their context, shall have the following meanings respectively:

(1) FUND. The Wisconsin retirement fund.

(2) MUNICIPALITY. The state and any city, village, town, county, common school district, high school district, county-city hospital established under s. 66.47, sewerage commission organized under s. 144.07 (4) or a metropolitan sewerage district organized under ss. 66.20 to 66.209, or any other unit of government, or any agency or instrumentality of 2 or more units of government now existing or hereafter created within the state.

(3) PARTICIPATING MUNICIPALITY. Any municipality included within the provisions of this fund.

(4) EMPLOYE. Any person who:

(a) Receives earnings out of the general funds of any municipality or out of any special fund or funds controlled by any municipality as payment for personal services.

(b) Whose name appears on a regular pay roll of such municipality.

(c) Is employed in a position normally requiring actual performance of duty during not less than 600 hours a year in such municipality, except that a participating employe who is simultaneously employed by another participating municipality shall be included under the fund by such other participating municipality for his service thereto, and

(d) Has completed at least 6 months' continuous service or 12 months' total service for the municipality by which such person is employed when such person otherwise first becomes eligible for participation in the fund, provided that leave of absence due to service connected disability compensated under ch. 102 shall be considered as continuous service but he shall not become a participating employe until after normal contributions become due.

(4a) PARTICIPATING EMPLOYE. An employe currently in the service of a participating municipality, or an employe who is on a leave of absence, subject to the limitations in section 66.903 (1) (b).

(5) EXCEPTIONS. The definition of employe shall not include persons:

(a) Who are senior teachers or junior teachers within the meaning of sections 42.20 to 42.54.

(b) Who are contributing to any policemen's or firemen's pension fund by virtue of section 61.65 or section 62.13 (9), (9a) or (10), except that any such person may, by written notice filed with the city or village clerk, irrevocably renounce all present, future and contingent benefits under the provisions of section 61.65 or section 62.13 (9), (9a) or (10), after which such person shall be exclusively under the Wisconsin retirement fund as long as he is otherwise eligible thereunder.

(c) Who are contributing to the conservation warden pension fund created by section 23.14, except that prior to January 1, 1948, any such person may, by written notice filed with both the trustees of the conservation warden pension fund and the conservation commission irrevocably renounce all present, future and contingent benefits under the provisions of section 23.14, in which case, effective January 1, 1948, such person shall be exclusively under the Wisconsin retirement fund as long as he is eligible thereunder.

(i) Who are elected to office by vote of the people or the legislature unless any such elected person shall request the board in writing to be included within the provisions of this fund. Any elected person included at his request shall be included during any subsequent term or part thereof which he may serve in the same office or in any other elective office in the same municipality or any other participating municipality, and at all times while he is included shall be subject to the compulsory retirement provisions of s. 66.906 (1). Persons so electing to participate shall be considered employes on the effective date of participation of the employing municipality except as provided in s. 66.903 (1) (a) 5, only if such election is received by the board within 90 days of such effective date and if such person was in the service of such municipality on such effective date. In all other cases any person so electing to participate shall become an employe as of the first day of the month following the receipt by the board of notice of such election. The administrative determination to the effect that the compulsory retirement provisions in s. 66.906 (1) apply to all persons who have once elected or shall once elect to be included in accordance with this paragraph is hereby declared to express and confirm the intention of the legislature.

(ij) Any elected official of any participating municipality other than the state who prior to January 1, 1948, had been a participating employe of that municipality, and who became an elected official of that municipality prior to January 1, 1952, and who, notwithstanding the failure to make the election required by par. (i), continued without interruption during all of said service as a participating employe and as an elected official to make normal contributions, shall be deemed to have so elected prior to his assumption of office, and his rights and credits as a participating employe under said fund are hereby ratified and confirmed.

(j) Other than those specified in paragraphs (a) and (b) who are included under the provisions of a retirement system existing in the employing municipality on the effective date of participation of such municipality if notice of election by the governing body of such municipality, to exclude such persons from participation in this system has been received by the board prior to the effective date of participation by such municipality, but such a person may become eligible for inclusion hereunder if such person shall, by written notice filed with the municipal clerk, irrevocably renounce all present, future and contingent benefits under such system, after which such person shall be exclusively under the Wisconsin retirement fund as long as he is otherwise eligible thereunder.

Note: (5) (j) was repealed by ch. 60, Laws 1957, but ch. 695, Laws 1957 provides that the repeal is to be effective October 1, 1958.

(k) Who were contributing to any firemen's pension fund by virtue of section 60.73 on January 1, 1947.

(m) Are patients or inmates of hospitals, homes or institutions performing service therein.

(5a) ELECTION TO EXCLUDE. Any participating municipality may act pursuant to sub. (5) (j) and may take such action as of the effective date of participation provided that:

(a) No contributions to the fund have been made by any individual for himself or by the municipality for any persons who in either case were included under a retirement system referred to in sub. (5) (j) on the effective date of participation.

(b) Written notice of the election pursuant to this subsection to exclude persons under such retirement plan prior to the effective date of participation is received by the board prior to February 1, 1958.

(c) Any person affected by action taken pursuant to this subsection may be included under the fund if such person prior to April 1, 1958, by written notice filed with the fund and with the clerk of such participating municipality, irrevocably renounces all present, future, and contingent benefits under any retirement system existing in such municipality, excepting the old-age and survivors insurance system, after which such person shall be included under the Wisconsin retirement fund as of the effective date of participation.

(d) If any person affected by this subsection, or a beneficiary, heir, or estate of any such person, establishes a right to a benefit under the Wisconsin retirement fund, based upon service rendered by such person as an employe of any municipality making the election provided for under this subsection, the cost of such benefit except that portion of the benefit based upon contributions made by the employe shall be charged to such mu-

nicipality by the Wisconsin retirement fund. In any action to establish a right to any such benefit, the said municipality shall be joined as a party defendant.

(e) The municipality has filed the required forms and pay roll reports and submitted all contributions due for all employes who were not under such local retirement system on the effective date of participation, but who were employes after the effective date of participation and were eligible to be participating employes under the Wisconsin retirement fund for part or all of the period between the effective date of participation and October 1, 1957, for whom forms, reports and remittances have not previously been submitted. In no event shall an employe be entitled to receive a separation benefit in an amount in excess of the normal and additional contributions made by him, plus any interest credited thereon.

(f) If any person has been prevented from applying for a retirement annuity because the participating municipality has not complied with the statutory requirements, such person may upon application if otherwise eligible have such annuity approved as of the earliest date such annuity could have begun had the participating municipality complied with the statute. Any person who was employed in a department of the participating municipality for which any such retirement system was established shall be deemed, if otherwise eligible, to have been eligible under the fund if not eligible for an annuity under such retirement system.

(g) The effective date of the repeal of s. 66.901 (5) (j) shall be October 1, 1958.

(6) PARTICIPANT. Any person included within the provisions of this fund by virtue of being or having been a participating employe.

(7) PRIOR SERVICE. The period beginning on the first day upon which any participating employe first became an employe of the municipality by which such employe was employed on the effective date of participation of such municipality, and ending on such effective date, excluding all intervening periods during which such employe was separated from the service of such municipality following a resignation, dismissal, lay-off, or expiration of any term of appointment or election as certified by the governing body of such municipality.

(8) CURRENT SERVICE. The period beginning on the day the employe first becomes a participating employe and ending on the day of the latest separation from the service of all participating municipalities, excluding all intervening periods during which such employe shall not receive, nor have a right to receive, earnings from a participating municipality.

(9) EARNINGS. An amount equal to the sum of the total amount of money paid on a regular pay roll by a municipality to an employe for personal services rendered to such municipality and the money value, as determined by rules prescribed by the governing body of the employing municipality, of any board, lodging, fuel, laundry and other allowances provided for such employe in lieu of money, excluding uniforms, except that prior to January 1, 1958, no amount in excess of $4,200 paid in any calendar year to any employe other than a justice of the supreme court, circuit judge, county judge or a full-time judge of a court of record, municipal or inferior, shall be considered for any purposes of this system unless credit therefor has been granted under s. 66.904 (1) (a) 8 and 9.

(10) RATE OF EARNINGS. The actual rate upon which the earnings of any employe are calculated at any time, as certified by the governing body of the employing municipality in a written notice received by the board, assuming that, unless otherwise specified, the following are equivalents: 2,000 hours, 250 days, 50 weeks, 12 months, one year.

(11) FINAL RATE OF EARNINGS. The earnings obtained by dividing one-third of the total earnings during the period of the 5 consecutive calendar years in which the total earnings of an employe were the highest, by the number of calendar quarter years in such period during which any earnings were received by such employe; provided that the earnings for all calendar years of prior service of any employe shall be considered as being equal to earnings determined at the rate upon which prior service credits are granted under s. 66.904 (1) (a) 1 and 8.

(12) ANNUITANT. A person receiving a retirement annuity, beneficiary annuity or a disability annuity from this fund.

(13) BENEFICIARY. The person so designated by a participant or annuitant in the last written designation of beneficiary on file with the board for that particular purpose; or if no person so designated survives, or if no designation is on file, the estate of such participant or annuitant. A designation of beneficiary may be signed and filed by a guardian when accompanied by a certified copy of an order of a circuit or county court approving the specific terms thereof.

(14) ANNUITY. A series of monthly payments, payable at the end of each calendar month during the life of an annuitant; the first payment to be made as of the end of the first complete calendar month following the date upon which such annuity begins, and the last payment to be made as of the end of the calendar month prior to the month in which the annuitant dies, except as provided in ss. 66.906 (3), (3a) and 66.909 (1) (d). The first payment shall include, in addition to the initial monthly amount, a pro rata amount for any fraction of a month elapsing between the date such annuity begins and the end of such calendar month.

(14a) VARIABLE ANNUITY. Any annuity provided by credits segregated for a variable annuity pursuant to s. 66.9065 the amount of which will change in accordance with s. 66.9065 (10). A "fixed annuity" shall be any other annuity.

(15) BOARD. The board of trustees of the Wisconsin retirement fund.

(16) GOVERNING BODY. The council or common council in cities, village board in villages, county board in counties, school boards in common school districts or high school districts, joint county-city hospital board, joint sewerage commission, or metropolitan sewerage commission, or town board, or the board or commission having the final authority for any other unit of government or for any agency or instrumentality of 2 or more units of government, or any agent duly appointed by any such body and designated in a written notice filed with the board as being authorized to act for any such body in matters pertaining to the fund. For the state there shall be a governing body for each department, board or commission thereof which governing body shall be, for each such department, board or commission, the respective head thereof, who shall be certified in writing to the board of trustees by the director of the bureau of personnel for the state, except that the director of budget and accounts shall be the governing body for circuit judges and other circuit court personnel. The head of each state department may, in a written designation filed with the board, name a departmental employe to act for him in all matters pertaining to the fund.

(17) EFFECTIVE DATE. The date upon which the provisions of this fund become applicable to any participating municipality as provided in section 66.902.

(18) PRIOR SERVICE CONTRIBUTION RATE. The rate at which prior service credits for employes are computed. For municipalities designating rates in accordance with the provisions of s. 66.902 the rates shall be the rates so designated; for other municipalities, the rate shall be one times the rate of municipality credits for current service on the effective date of participation of the municipality, except that for the state of Wisconsin the prior service contribution rate shall be 2 times the rate of municipality credits for current service, except as provided in s. 66.902 (3).

(19) EFFECTIVE RATE OF INTEREST. The rate determined by the board from the experience of the calendar year or part thereof for the fixed annuity division which, after making provision for the reserves authorized by s. 66.916 (2) and after providing for interest requirements on the fixed annuity reserves, will distribute the remaining interest income from assets of the fixed annuity division for the year to the balances in the additional, normal, municipal and prior service credit accounts of the individual employes in the fixed annuity division.

(20) PRESCRIBED RATE OF INTEREST. The rate of interest to be used for all calculations of amounts of annuities and benefits, as determined and certified by the board on the basis of the probable average effective rate of interest earnable on investments on a long term basis. Until the board certifies otherwise, such rate will be 3 per cent per annum compounded annually.

(21) CALENDAR QUARTER YEAR. A period of 3 months beginning on January 1, April 1, July 1 or October 1 of any year.

History: 1951 c. 475, 667, 722; 1953 c. 246; 1955 c. 9, 41; 1957 c. 60, 126, 331, 381, 387, 388, 528, 533, 610, 617, 672, 695.

A person who, as county judge, elected to participate under the Wisconsin retirement fund pursuant to (5) (i), and who as circuit judge subsequently again elected to participate therein, may not elect to discontinue such participation while continuing to serve as circuit judge. He must continue to make employe contributions and may not withdraw his contributions as long as he continues to serve as such judge. 41 Atty. Gen. 383.

Employes of a joint county mental health clinic are joint county employes and would not come under the Wisconsin retirement fund. 44 Atty. Gen. 8.

The fact that one person received an annuity under the state retirement system, but that his successor is classified as a teacher subject to teacher's retirement payments is not necessarily wrong, since their duties may be different. 45 Atty. Gen. 198.

Municipal housing authority created under 66.40, and employes thereof, are not eligible for inclusion under Wisconsin retirement fund by virtue of the enactment of ch. 682, Laws 1955. 45 Atty. Gen. 180.

Employes of the state historical society are "employes" within the meaning of (4) and properly have been included under the Wisconsin retirement fund. 45 Atty. Gen. 171.

Under (13) as printed in the 1955 statutes a guardian of a participant or annuitant under Wisconsin retirement fund does not have authority to change the designation of the beneficiary named by a participant or annuitant and does not have authority to designate beneficiary where none has been named. 46 Atty. Gen. 129.

66.902 Municipalities included and effective dates. (1) Any municipality, except a city of the first class, a county having a population of 500,000 or more and the state of Wisconsin, shall be included within, and shall be subject to, the provisions of this fund by so electing, in accordance with this section. The effective date of participation of any such municipality shall be January 1 of the year after the year in which proper official notice of election to be included has been received by the board. The state of Wisconsin is hereby included, effective January 1, 1948. Except as provided in subs. (1a) and (1b), a municipality which has not elected to participate but some of whose employes will be included within and be subject to this fund on or after January 1, 1948 shall be included within and be subject to this fund effective January 1, 1948 as though such municipality had elected to participate herein, provided that, until such municipality does actually so elect and such election becomes effective, its employes included within and subject to this fund shall be only those specified by ss. 61.65 (6) and (7), 62.13 (9) (e), (9a), (10) (f) and (g).

(1a) A county which has not elected to become a participating municipality but whose county judge has become a participating employe shall be included within and be subject to ss. 66.90 to 66.918 except that until such county does so elect and such election becomes effective only its county judge shall be included, and except that all municipality contributions for its county judge shall be made by the state as provided in s. 66.905 (7) instead of by the county. In no event shall such a county become a participating municipality or the county judge therein a participating employe prior to January 1, 1954.

(1b) A county or city which has not elected to become a participating municipality but whose full-time judges of courts of record, municipal or inferior (other than county courts), have become participating employes shall be included within and be subject to ss. 66.90 to 66.918 except that until such county or city does so elect and such election becomes effective only its full-time judges of courts of record, municipal or inferior (in addition to county judges), shall be included, and except that all municipality contributions for such judges shall be made by the state as provided in s. 66.905 (8). In no event shall such a county or city become a participating municipality or a judge of a court therein, municipal or inferior (other than a county court), a participating employe prior to January 1, 1956.

(2) Election by a municipality to be included within the provisions of this fund shall be made by a resolution adopted by a majority of all the members of the governing body. The governing body of any municipality so electing shall immediately submit a certified notice of such election to the board. Such notice must:

(a) Be in writing;

(b) Indicate the date of such election;

(c) Include a certification of the prior service contribution rate, if any, selected as being applicable to the employes of the municipality; and

(d) Be officially certified by the clerk of the municipality, or in the case of a joint sewerage system or a metropolitan sewerage district by the secretary of the commissioners thereof.

(2a) Any participating municipality which has elected or shall have elected to grant prior service credit to its employes on the one or 1½ basis, pursuant to subsection (2) may, within 10 years after the effective date for such municipality, elect to change the basis upon which the prior service credit of all persons who are then participating employes shall be computed to be the 1½ or 2 basis. Any such election shall be made by the participating municipality by using the appropriate part of the procedure which such municipality would then use if it were originally electing the basis upon which to grant prior service credit to its employes. When any such election to change the basis for computing prior service credits shall have become effective in any participating municipality, the governing body thereof shall certify such fact to the Wisconsin retirement fund which shall, as of the effective date for such municipality, recompute the prior service credit which had been granted to any person who has never been an annuitant and who is a participating employe of such municipality at any time after such election shall have become effective therein. Such election and recomputation shall not authorize any correction in the previous prior service credit computation because of error in the length of service if the 2-year period specified in section 66.912 (1) (g) shall have expired before such recomputation is made.

(3) Municipalities other than the state of Wisconsin electing to participate may also elect to provide prior service credits at rates equal to 2, 1½ or one times the rates of municipality credits for current service provided such basis is specifically designated in the notice of election to participate in the fund, as being applicable to all employes included as of the effective date. Each employe of the state of Wisconsin who becomes a participating employe effective January 1, 1948 pursuant to section 66.903 (1) (a) 4 shall be given prior service credit for state service prior to January 1, 1948 in accordance with section

66.904 (1) (a) 1 at the rate of 2 times the municipality credit for current service, minus the required contribution and interest credited thereto transferred from the state employes' retirement fund and included as an additional credit of such employe pursuant to section 66.904 (1) (a) 4, provided that in the computation of such prior service credit:

(a) No credit shall be given for state service as a teacher for which the state made a state deposit under the provisions of sections 42.20 to 42.54.

(n) Each supreme court justice and circuit judge who makes the election pursuant to s. 66.901 (5) (i) shall be given prior service credit as of January 1, 1952, in accordance with s. 66.904 (1) (a) 1 for service prior thereto as supreme court justice, circuit judge or county judge, or as full-time judge of a court of record, municipal or inferior, at the rate of 2 times the municipality credit for current service. Prior service credit for service as county judge, or as full-time judge of a court of record, municipal or inferior, shall be based only upon his salary as such judge (excluding fees and salary as juvenile judge) computed on the basis of the earnings for the last 3 years of service as such judge (or less if the total be less), and such prior service credit shall be reduced by an amount equal to the accumulated prior service credit theretofore granted to such participating employe for service as such judge and by an amount equal to the accumulation of all normal and municipality matching credits for service as such judge, including interest which has been credited.

(o) Each county judge who makes the election authorized by s. 66.903 (1) (a) 6 shall be granted prior service credit as of January 1, 1954, in accordance with s. 66.904 (1) (a) 1 for service rendered as county judge prior to said date at the rate of 2 times the municipality credit for current service after January 1, 1954, based only upon his salary as county judge (excluding fees and salary as juvenile judge) which prior service credit shall be reduced by the sum of all normal contributions made by him as county judge prior to said date and the interest added thereto. The limitation on earnings provided in ss. 66.901 (9) and 66.903 (2) (a) 1 shall not be applicable. His normal and additional contributions made for any period prior to January 1, 1954, and interest thereon shall become an additional credit of such participating employe and shall be treated in all respects as additional contributions made pursuant to s. 66.904 (1) (a) 4. The prior service credit granted as herein provided shall supersede and replace all prior service credit theretofore granted to such participating employe for service as a county judge which latter prior service credit shall be canceled forthwith. The credit for any other prior service previous to the period covered by such cancellation shall be recomputed upon the basis of the earnings for the last 3 years of such service (or less if the total be less).

(p) Each full-time judge of a court of record, municipal or inferior (other than a county court) who makes the election authorized by s. 66.903 (1) (a) 7 shall be granted prior service credit as of January 1, 1956, in accordance with s. 66.904 (1) (a) 1 for service rendered as judge of a court of record, municipal or inferior, prior to said date at the rate of 2 times the municipality credit for current service after January 1, 1956, based only upon his salary as judge of said municipal or inferior court (excluding fees and salary as juvenile judge) which prior service credit shall be reduced by the sum of all normal contributions made by him as judge of said municipal or inferior court prior to said date and the interest added thereto. The limitation on earnings provided in ss. 66.901 (9) and 66.903 (2) (a) 1 shall not be applicable. His normal and additional contributions made for any period prior to January 1, 1956, and interest thereon shall become an additional credit of such participating employe and shall be treated in all respects as additional contributions made pursuant to s. 66.904 (1) (a) 4. The prior service credit granted as herein provided shall supersede and replace all prior service credit theretofore granted to such participating employe for service as a judge of a court of record, municipal or inferior, which latter prior service credit shall be canceled forthwith. The credit for any other prior service previous to the period covered by such cancellation shall be recomputed upon the basis of the earnings for the last 3 years of such service (or less if the total be less).

(r) Any elected state officer not eligible to be included under the fund before August 30, 1957 who within 90 days after such date files with the fund an election under s. 66.901 (5) (i) shall be entitled to prior service credits as of January 1, 1957, for eligible state service prior thereto at the rate of 2 times the municipality credit for current service, and shall within 60 days make all required normal contributions from January 1, 1957, to date. When there were no earnings during the 3 calendar years prior to January 1, 1957, the prevailing rate of earnings for the position shall be used in computing the prior service credit. It is hereby declared and determined that the offices of lieutenant governor, assemblyman, state senator, chief clerk and sergeant at arms of the assembly, and chief clerk and sergeant at arms of the senate require the actual performance of duty for more than 600 hours in each year.

(5) [*(a) and (b) not printed; 1957 c. 60, s. 35; see 1955 Stats.; (c), (d) and (e) repealed; 1957 c. 60, s. 13, but rights created or action taken prior to repeal preserved.*]

History: 1951 c. 475; 1953 c. 461, 467, 630, 631, 664; 1955 c. 347, 438, 486, 655; 1957 c. 60, 379, 617, 668.

66.903 Employes included; effective dates; contributions by employes. (1) EMPLOYES INCLUDED AND EFFECTIVE DATES. (a) All persons subject to sections 66.90 to 66.918 shall be included within, and shall be subject to, the provisions of this fund, beginning upon the dates hereinafter specified:

1. All such persons who are employes of any municipality on the effective date of participation of such municipality as provided in section 66.902, beginning upon such effective date.

2. All such persons who become employes of any participating municipality after the effective date of participation of such municipality as provided in s. 66.902, beginning upon the first day of the calendar month following the date on which any such person has met all of the other qualifications for becoming a participating employe, but beginning immediately for any former participating employe who is otherwise eligible.

4. All members of the state employes' retirement system who shall be on a leave of absence from the state service on January 1, 1948 or who shall be contributing to said system on December 31, 1947, except those who will be retired under said system effective January 1, 1948, pursuant to section 42.71 (1) (c) shall become participating employes hereunder effective January 1, 1948 and shall be governed by the provisions of sections 66.90 to 66.918.

5. The effective date for supreme court justices and circuit judges shall be January 1, 1952. Each supreme court justice and circuit judge who files his official oath on or after August 17, 1957 shall be included within the fund and be subject to ss. 66.90 to 66.918, notwithstanding s. 66.901 (5) (i).

6. In all counties under 500,000, every county judge who shall file his official oath as county judge on or after January 1, 1954 shall be included within the fund and be subject to ss. 66.90 to 66.918 notwithstanding s. 66.901 (5) (i), except that in computing his normal contributions, all fees and all salary as juvenile judge shall be disregarded and no prior service credits shall be granted because of such inclusion. Any county judge in a county under 500,000 (including any such county judge who shall have been appointed and who previously had no right of election) who shall have filed his official oath as county judge prior to January 1, 1954, and who after September 1, 1953 and prior to January 1, 1954, notwithstanding any prior election, shall have filed with the board an election to participate pursuant to s. 66.901 (5) (i) shall be included within the fund and be subject to ss. 66.90 to 66.918.

7. In all counties under 500,000, every full-time judge of a court of record, municipal or inferior (other than a county court), who shall file his official oath on or after January 1, 1956, shall be included within the fund and be subject to ss. 66.90 to 66.918 notwithstanding s. 66.901 (5) (i), except that in computing his normal contributions, all fees and all salary as juvenile judge shall be disregarded and no prior service credits shall be granted because of such inclusion. Any full-time judge of a court of record, municipal or inferior, in a county under 500,000 (including any such judge who shall have been appointed and who previously had no right of election) who shall have filed his official oath as such judge prior to January 1, 1956, and who after September 1, 1955, and prior to January 1, 1956, notwithstanding any prior election, shall have filed with the board an election to participate pursuant to s. 66.901 (5) (i) shall be included within the fund and be subject to ss. 66.90 to 66.918.

(b) Every leave of absence granted by a participating municipality to a participating employe except a military leave shall automatically terminate at the end of 2 years for the purposes of this fund if not previously terminated by the participating municipality. No leave of absence shall be deemed to have been ended or interrupted by reason of resumption of active duty until the participating employe has resumed active performance of duty for the participating municipality which granted such leave of absence for at least 18 working days within a period of 30 consecutive calendar days.

(c) Any person who has met all of the requirements of s. 66.901 (4), other than par. (d) thereof, shall be included under the fund but shall not make any contributions thereto or be eligible for any benefits thereunder until he becomes a participating employe.

(2) CONTRIBUTIONS BY EMPLOYES. (a) Each participating employe shall make contributions to the fund as follows:

1. Normal contributions of 3 per cent of each payment of earnings paid to any such employe by any participating municipality except that the normal contribution rate on said earnings for such employes who are justices of the supreme court, circuit judges, conservation wardens, conservation patrol boat captains, conservation patrol boat engi-

neers, conservation airplane pilots, state forest rangers, members of the state traffic patrol, policemen, including the chief and all other officers, firemen, including the chief and all other officers, and employes of the conservation commission who are designated by the conservation director as being subject to call for forest fire control or warden duty, shall be 5 per cent, and except further that for any fireman not covered by the federal old-age and survivors insurance system the rate shall be 7 per cent. Effective January 1, 1955, for a county judge who makes the election authorized by sub. (1) (a) 6, and for a county judge who files his official oath as county judge on or after January 1, 1954, the normal contribution rate shall be 5 per cent. Effective January 1, 1956, for a full-time judge of a court of record, municipal or inferior (other than a county court) who makes the election authorized by sub. (1) (a) 7, and effective upon becoming a participating employe for such a judge who files his official oath as judge on or after January 1, 1956, the normal contribution rate shall be 5 per cent. For participating earnings in excess of $4,200 per year the normal contribution rate shall be 7 per cent in the case of supreme court justices, circuit judges, county judges and full-time judges of a court of record, municipal or inferior. Any county which is or becomes a participating municipality may certify to the Wisconsin retirement fund that any employe who then is or may become an undersheriff, a deputy sheriff or traffic policeman is engaged in a hazardous occupation and may require that after a date specified by it but not earlier than January 1, 1948, the normal contribution rate for such employe shall be 5 per cent and in such case such employes shall be included under and receive the benefits of s. 66.191; but no prior service credit may be granted to any such participating employe upon the basis of the increased contribution rate except as provided in s. 66.904 (1) (a) 12.

1a. Effective January 1, 1958, the normal contribution rate for all participating employes employed by the state to whom a higher contribution rate is not applicable shall be changed to 4 per cent. Any other participating municipality by a resolution adopted by the governing body thereof may increase the 3 per cent normal contribution rate to 4 per cent for all participating employes of that municipality to whom a higher contribution rate is not applicable, effective as of the beginning of the ensuing calendar year, provided that a certified copy of such resolution is received by the fund not less than one calendar month before the beginning of the calendar year in which such increase is effective.

1p. The normal contribution rate of a participating employe for whom age 60 is the compulsory retirement age (including an employe for whom a later retirement date is provided by s. 66.906 (1) (c)) who is authorized to continue in service pursuant to s. 66.906 (1) (a), shall be 4 per cent for the state and for municipalities which have increased such rate from 3 to 4 per cent under subd. 1a, and 3 per cent for all other municipalities, during the first 5 years of such continuance. After such continuance has been in effect for 5 years no normal contributions shall be payable by such a participating employe.

2. Additional contributions of such amount from any payment of earnings as shall be received for any employe but not to exceed $500 in any calendar year.

3. In every municipality which shall have become a participating municipality prior to January 1, 1948, employe and municipality contributions shall be required only upon that part of the earnings of any participating employe not to exceed $250 per month, or an equivalent for any other period, which are included in any report of earnings submitted to the fund for any month prior to January 1948. In every such municipality, any prior service credit to any person who is a participating employe on the effective date of this act shall be recomputed pursuant to section 66.904 (1) (a) 1 when necessary to give such person the benefit of a prior service credit based upon earnings in excess of $250 but not over $350 per month, and the prior service credit of each such person shall be increased accordingly, effective as of the same date as the original prior service credit granted to such person.

(e) All normal contributions and all additional contributions shall be deducted from each corresponding payment of earnings paid to each participating employe and shall be due and be deposited in the office of the board by the employing municipality not later than the end of the month in which the earnings are paid. The deductions from earnings of participating employes of the state of Wisconsin and the duplicate monthly report of earnings required by the fund shall be due and be deposited in the office of the board by the respective departments, boards or commissions in which such employes are employed not later than the end of the month in which the earnings are paid.

History: 1951 c. 475, 518, 722; 1953 c. 61, 461; 1955 c. 9, 41, 137, 262, 478, 486, 655; 1957 c. 79, 83, 126, 527, 550, 690.

"Deputy sheriffs" in (2) (a) 1 include only persons performing the duties usually associated with the office of deputy sheriff, and that includes court bailiffs regardless of their civil service classification, but does not include other employes of the county, whether employed in the sheriff's office or in other county departments, who have been deputized by the sheriff in order that they may have police powers if necessary in emergency situations. 41 Atty. Gen. 276.

66.904 Credits to employes; credits for service men. (1) CREDITS TO EMPLOYES. (a) For the purpose of determining the amount of any annuity or benefit to which an employe or beneficiary shall be entitled, each participating employe shall be credited with the following amounts, as of the dates specified:

1. For prior service, each participating employe who is an employe of a participating municipality on the effective date, shall be credited, as of such date, with a prior service credit of an amount equal to the accumulated value, as of such date, of the contributions which would have been made during the entire period of prior service of such employe, in accordance with s. 66.902 (3), assuming the earnings of such employe to have been uniform during such period of prior service and equal to the monthly earnings obtained by dividing the total earnings during the period of the 3 calendar years immediately preceding the effective date, by the number of months in such period during which any earnings were received by such employe; the rate of contribution to have been the prior service contribution rate applicable to such employe; the contributions for each calendar year to have been made at the end of such year; and the contributions to have accumulated with interest at the rate of 3 per cent per annum compounded annually. In computing such prior service credits normal contribution rates of 5 and 7 per cent shall be used in lieu of 3 and 5 per cent respectively as set forth in s. 66.903 (2) (a) 1, from which shall be deducted any contributions to the federal old-age and survivors insurance system for any such prior service.

2. For current service, each participating employe shall be credited with the following amounts as of the dates specified:

a. Additional credits of amounts equal to each payment of additional contributions received from such employe, as of the date the corresponding payment of earnings is payable to the employe;

b. Normal credits of amounts equal to each payment of normal contributions received from such employe, as of the date the corresponding payment of earnings is payable to the employe;

c. Municipality credits of amounts equal to each normal credit of each employe, as of the date of each corresponding normal credit;

d. In conformity with procedures established by rule, additional municipality credits of amounts equal to 2 per cent of the participating earnings as such, of each conservation warden, conservation patrol boat captain, conservation patrol boat engineer, conservation airplane pilot, state forest ranger, member of the state traffic patrol, policeman (including the chief and all other officers), fireman (including the chief and all other officers), or employe of the conservation commission who is designated by the conservation director as being subject to call for forest fire control or warden duty, as of the date such earnings are payable, for the period from January 1, 1958, to July 1, 1959.

3. For re-entrance into service upon termination of an annuity in accordance with s. 66.906 (4) (a) or s. 66.907 (2) (e), each employe so re-entering shall be credited, as of the date such annuity is terminated, with additional, normal municipality and prior service credits of amounts equal to the then present value of the portion of the terminated annuity which was originally provided by the corresponding type of credit.

4. When any person who was a member of the state employes' retirement system on December 31, 1947 becomes a participating employe under the Wisconsin retirement fund, the board of trustees of said latter fund shall certify such fact to the state of Wisconsin investment board which shall forthwith certify to the said board of trustees the total sum to the credit of such person in said former system, including an equitable amount of interest from July 1, 1947, which shall be determined by the state of Wisconsin investment board and by it credited to the respective accounts, indicating the amount attributable to regular contributions and interest, and the amount attributable to additional contributions and interest which board of trustees shall thereupon credit the amount attributable to regular contributions and interest and the amount attributable to additional contributions and interest, as an additional credit to an account which shall be established forthwith for such participating employe in the Wisconsin retirement fund. The portion of such additional credit which is attributable to regular contributions and interest under the state employes' retirement system shall not be payable as a death benefit in addition to the $500 death benefit provided for by s. 66.908 (2) (a) and in all other respects shall be treated as normal credits except that no corresponding municipality credit therefor shall be given pursuant to s. 66.904 (1) (a) 2. Whenever the state of Wisconsin investment board shall make such a certification, it shall forthwith transfer, by cash payment or sale or assignment of securities from the state employes' retirement fund to the Wisconsin retirement fund, assets equal in value to the total of the amounts so certified. The state of Wisconsin investment board may make a correctional or supplementary certification and corresponding transfer of assets at any time.

6. Notwithstanding any other provisions of this section, any participating municipal-

ity may grant prior service credits to its employes included under the fund for periods of employment by another municipality from whose area or any part thereof the participating municipality was created; and any participating municipality may grant prior service credits to its employes included under the fund for periods of employment by another municipality all or part of whose area is included within such participating municipality. When a participating municipality desires to grant any such prior service, the governing body of the participating municipality shall certify to the fund all such periods of service and the earnings received by the employe which are needed to compute the prior service credits of said employes as though the employes had been in the service of the participating municipality during all of said periods of service.

7. Notwithstanding the provisions of section 66.901 (4) (b), prior service credit may be given to each participating employe who is or was an employe of a participating municipality on the effective date for periods during which he served such municipality, or an officer of such municipality, on a fee basis, if such participating employe is otherwise eligible for such prior service credit. The governing body of any participating municipality which shall exercise the right hereby granted to give prior service credit for either or both of said kinds of service, shall certify to the fund all such periods of service and the fees received by such participating employe during such periods, which fees shall be considered earnings for the purpose of calculating the amount of such prior service credit. Notwithstanding the provisions of section 66.901 (4) (b), any participating municipality also may include as participating employes persons performing services of which the participating municipality receives the benefit but who are paid for such services by an officer of such municipality or may grant prior service credit to participating employes for services of which the participating municipality received the benefit but who were paid for such services by an officer of such municipality; prior service credit for such service rendered prior to the effective date of participation by the municipality shall be computed, for any such person so included or for any such participating employe, upon the basis of the compensation certified by the participating municipality as being the usual compensation of any such person or participating employe for such services; current service credit for such service rendered after such inclusion shall be computed upon the basis of the compensation received by any such person for such services as certified upon the pay rolls submitted by such participating municipality.

8. The prior service credits of every participating employe who is employed by the state on January 1, 1958, shall be redetermined where necessary by including in his total earnings during the 3 calendar years immediately preceding the effective date under subd. 1 all earnings in excess of $4,200 per year as an employe of the state, effective as of the same date as the prior service credit originally granted to such person for service as an employe of the state. Any other participating municipality may by resolution of the governing body provide that in like manner the prior service credits for service for that participating municipality of every person who is a participating employe of that municipality upon the date of the adoption of the resolution shall be redetermined in like manner. Any increase in prior service credits under this subdivision shall be added to the obligation of the municipality under s. 66.915 (1) (a).

9. There shall be credited as of January 1, 1958, to each participating employe who is employed by the state as of such date for each year of service for the state subsequent to January 1, 1948, and prior to January 1, 1958, a prior service credit equal to the product of the normal contribution rate for such participating employe for such year multiplied by the amount of the earnings paid to him in such year, but not considered as participating earnings due to a limitation under s. 66.901 (9) on the monthly or annual amount of earnings, without interest. Any other participating municipality may by resolution of the governing body provide that a prior service credit determined in like manner shall be credited to each person who is a participating employe of that municipality on the date such resolution is adopted, for each year of service for that participating municipality from the effective date to January 1, 1958. An obligation equal to all credits granted under this subdivision to the employes of such participating municipality shall be charged under s. 66.915 (1) (b) to be paid under s. 66.905 (2) (b).

10. The prior service credits of every participating employe who is employed by the state on January 1, 1958, as a state traffic officer, state conservation warden, state forest ranger or other state conservation department employe subject to the 5 per cent normal contribution rate, who received prior service credits for service prior to January 1, 1948, in such a position, shall be redetermined upon the basis of a 7 per cent normal contribution rate, effective as of the same date as the prior service credit originally granted to such person as a state employe. The prior service credits of every policeman or fireman who received prior service credits as such prior to January 1, 1948, who on January 1,

1958, is still employed by the same participating municipality as a policeman or fireman, shall be redetermined in like manner.

12. Any county which has acted for any participating employes pursuant to s. 66.903 (2) (a) 1 may by resolution provide for the recomputation as of the effective date of the prior service credits of such persons who are participating employes of such participating municipality on the date such resolution is adopted in the same manner as provided by subd. 10.

(b) The credits of each individual participant shall be accumulated in a separate account for each type of credit, and interest shall be credited thereon as follows:

1. All balances at the beginning of each year remaining in such accounts at the end of the year shall be improved with interest, at the end of each year, at the effective rate of interest for the year.

2. All amounts credited to participants during the year because of reentrance into the service in accordance with paragraph (a) 3 or because of certifications in accordance with paragraph (a) 4 remaining in such accounts at the end of the year shall be improved with interest at the end of such year for each full month elapsing between the date of credit and the end of the year, at one-twelfth of the effective rate of interest for the year.

3. All balances at the beginning of any year, and all amounts credited to participants during the year in accordance with par. (a) 3, not remaining in such accounts at the end of the year because of the granting of annuities or death benefits during the year, shall be improved with interest, on the first day of the month in which the first annuity or death benefit payment is due, for each full month elapsing between the first day of the year or the date of credit, as the case may be, and the first day of the month in which such first annuity or death benefit payment is due, at one-twelfth of the effective rate of interest for the preceding year. This subdivision shall not apply to death benefits under s. 66.908 (2) (b).

4. Upon the granting of a retirement annuity, a disability annuity, a death benefit or a separation benefit, all of the accumulated credits of such participant shall thereupon be terminated and no further right to such credits shall exist other than the right to such annuity or benefit so granted except as provided by s. 66.908 (2) (c), (d) and (e).

(c) Whenever, pursuant to section 62.13 (10) (g) a fireman shall become a participating employe after the effective date in any municipality, such fireman and such municipality shall, within one year thereafter make respectively the normal contributions and municipality contributions which normally would have been made for such employe after the effective date, and thereupon such fireman shall be credited, as of the effective date with such prior service credits, if any, as would normally have been credited to him.

(d) In computing the prior service credit of a person who was an employe on the effective date there shall be included all previous service for such municipality, including service as an elective or appointive official or as an employe, if such service or employment conformed to the requirements of section 66.901 (4).

(2) PRIOR SERVICE CREDITS FOR SERVICE MEN. (a) Prior service credits pursuant to sub. (1) (a) 1 shall be granted for periods of service in the armed forces of the United States during World War II, which shall include such service subsequent to September 16, 1940, to any person who was an employe on the effective date of participation by such municipality and who left the service of such municipality to enter such armed forces. Such credit shall be granted as of the date the employe resumes or resumed employment with the municipality pursuant to s. 16.276 or 45.50 prior to January 1, 1948. Credit shall also be granted for service during World War I to any person who was employed by the municipality at the time of his entrance into the armed forces of the United States, if such employment was resumed within 90 days after discharge from the armed forces and continued until the effective date of participation of the municipality with total interruptions thereafter of not to exceed 2 years.

(b) In each such case the earnings computed under subsection (1) (a) 1 shall be adjusted to reflect any salary increase or salary adjustment which would have altered the rate of earnings during the period of the 3 calendar years immediately preceding the effective date if such employment had not been interrupted by service in the armed forces. Whenever because of service in the armed forces an employe shall have no earnings as computed under subsection (1) (a) 1, then the rate of earnings shall be computed by dividing the earnings during the last 12 calendar months of municipal employment by 12, and such rate of earnings shall be adjusted as provided in this paragraph.

(c) The provisions of this subsection shall be effective, as to any municipality now or hereafter included in this fund, as of the date of participation of each such municipality.

(3) CURRENT SERVICE CREDITS FOR SERVICE MEN. (a) Current service credit shall be granted for that period of service spent in the armed forces of the United States, between

the effective date of participation by the employing municipality and the date when the employe resumed employment with the municipality pursuant to s. 16.276 or 45.50, such credit to be given as of such latter date, but such credit shall be granted only to a person who was an employe on the effective date of participation by such municipality, who left the service of such municipality to enter such armed forces and who entered such armed forces prior to January 1, 1948.

(b) The participating municipality shall grant such current service credit by making for such participating employe the municipality contributions which it would have made for such employe had he continued in the service of such municipality during such period. In each such case the assumed earnings of such employe, upon which such municipality contributions must be based, shall be computed in the manner provided for computing earnings under subsection (2) (b).

(bb) Current service credit shall be granted for that period of service spent in the armed forces of the United States between the beginning of such service or June 25, 1950, whichever is later, and the date when the employe completes such service, if the employe resumes employment with the participating municipality in conformity with section 45.50 (1), but such credit shall be granted only to a person who left the service of the participating municipality to enter such armed forces. Such credit shall be granted pursuant to section 66.904 (3) (b) as of the date the employment is resumed.

(c) The provisions of this subsection shall be effective, as to any municipality now or hereafter included in this fund, as of the date of participation of each such municipality.

History: 1951 c. 511, 552, 719, 722; 1953 c. 251, 412; 1955 c. 41, 262; 1957 c. 60, 126, 550, 660.

Employes of a register of deeds who receives his compensation exclusively from fees and who disburses the sums so collected to whom and as he determines so long as he performs the functions of the office are eligible to be included in the retirement system. 40 Atty. Gen. 102.

66.905 Contributions by municipalities. (1) Except as provided in subs. (7) and (8), each participating municipality shall make contributions to the fund as follows:

(a) Municipality contributions of the percentages, as specified in this section, of each payment of earnings made to each participating employe. Such contributions shall be made by the state from the respective funds from which the salaries are paid to the employe for whom such contributions are being made; the heads of the respective state departments, boards and commissions which make the salary deductions in accordance with s. 66.903 (2) (e) shall, at the time that said salary deductions are sent to the board, by applying the municipality contribution rate of the state to the appropriate portion of the earnings of the respective employes of that department, board or commission, determine the amount of the corresponding municipality contribution to be made by the proper fund of the state and shall indicate the amount of such contribution on the monthly payroll report submitted in duplicate to the fund. The fund shall transmit one copy of such monthly payroll report to the director of budget and accounts together with a voucher for payment to the Wisconsin retirement fund, from the appropriate state funds, of the amounts payable thereto as indicated by the copy of the payroll reports so submitted. Thereupon the director of budget and accounts shall promptly approve such voucher for payment and the state treasurer shall forthwith issue his check therefor to the Wisconsin retirement fund.

(b) Advance contributions of such amounts as shall be determined by any such municipality for the purpose of reducing any existing obligation of such municipality for prior or current service.

(2) Each such percentage shall be the rate computed as necessary to provide, as of the beginning of such year, the total of the following:

(a) The uniform annual amount required, after allowance for anticipated employe separations, at the prescribed rate of interest, to amortize, over the remainder of the period of 40 years following the effective date, the amount, as of the beginning of such year, of the obligation for the prior service credits granted to the employes of the municipality.

(b) The amount of the single payment required, after allowance for anticipated employe separations, because of earnings paid to employes of the municipality, to provide all municipality credits granted during such year; adjusted by the uniform annual amount required, at the prescribed rate of interest, to amortize or to refund over 10 years, the amount, as of the beginning of such year, of any then existing obligation for, or surplus applicable to, the municipality credits previously granted to the employes of the municipality, and to the granting on account of any employes of the municipality, of death benefits in excess of the amount of the available accumulated credits of such employes.

(c) The amount of the one-year term premium required to provide the excess, if any, of the present value of the disability benefits expected to be granted during such year to the employes of such municipality, over the available accumulated credits of such employes.

(e) The amount required to provide that proportion of the total administrative expense for the year, adjusted for any surplus or deficiency existing as of the end of the previous year which the number of employes in the municipality, as of the beginning of such year, is of the total number of employes then in all municipalities.

(3) Computations of the rates of municipality contributions for the following calendar year shall be made prior to the regular meeting of the board each December, from the information available at the time of making such computation and on the assumption that the employes in each municipality at such time will continue in service until the end of such calendar year at their respective rates of earnings in effect at such time. Such rates shall become effective, after certification by the board, as of the beginning of the calendar year to which they are applicable and shall remain in effect during such year.

(4) The amount of each municipality contribution shall be determined by applying the proper percentage rate of contribution to the total of all earnings paid to employes of the municipality on each pay day, and all such amounts shall be due and be deposited in the office of the board by the municipality not later than the end of the month in which the earnings are paid.

(5) Notwithstanding any other provisions of this section, each participating municipality which has no participating employes as of the beginning of the year shall make contributions to the fund 4 times during the year, in addition to any contribution under section 66.905 (1) (b). Such contributions shall be due and be deposited in the office of the fund by the municipality not later than February 15, May 15, August 15 and November 15 of the year. The amount of each such municipality contribution shall be one-fourth of the amount required for the year under section 66.905 (2) (a) and (b) assuming that the municipality will have no participating employes during the year.

(6) Whenever any school district which is a participating municipality shall have its existence terminated because of consolidation or for any other reason, the school district or municipality which thereafter includes the area of such school district shall be liable for all prior service obligations or other obligations payable to the Wisconsin retirement fund by such district. If the territory of such former participating municipality is attached to 2 or more school districts or municipalities, the total obligation to the Wisconsin retirement fund shall be allocated to such school districts or municipalities in proportion to the equalized valuation of each area so attached. The amount of such obligation and the allocation thereof to the respective school districts or municipalities shall be certified by the board of trustees of the Wisconsin retirement fund to the clerk of each such school district or municipality. If the school district or municipality to which the territory is so added is or becomes a participating municipality the obligation so certified to its clerk shall be added to its obligation under section 66.905. If the school district or municipality to which any part of such district is added is not a participating municipality the obligation shall be liquidated by an annual payment to be made not later than May 1 in each year following a certification which shall be made by the board in conformity with section 66.905 (2) (a). Whenever such obligation is discharged pursuant to the law, the board shall refund any overpayment.

(7) Notwithstanding any other provision, the cost of all prior service credits and municipality current service credits granted on and after January 1, 1954 to county judges whose normal contribution rate is 5 per cent shall be paid by the state. Each county under 500,000 shall submit a separate report to the fund each month pursuant to s. 66.903 (2) (e) for county judges whose normal contribution rate is 5 per cent unaccompanied by any matching municipality contribution. This report shall exclude all fees and all salary as juvenile judge. The fund shall consolidate all of such reports each month and apply to the total participating earnings shown thereon the municipality contribution rate for the state and transmit such consolidated report to the director of budget and accounts together with a voucher for payment to the Wisconsin retirement fund from the general fund of the matching municipality contributions payable thereto as indicated by the consolidated report so submitted. Thereupon the director of budget and accounts shall promptly approve such voucher for payment and the state treasurer shall forthwith issue his check therefor to the Wisconsin retirement fund.

(8) Notwithstanding any other provision, the cost of all prior service credits and municipality current service credits granted on and after January 1, 1956, to full-time judges of courts of record, municipal or inferior (other than a county court), whose normal contribution rate is 5 per cent shall be paid by the state. Each county under 500,000 having such a judge and each city in a county of under 500,000 having such a judge shall submit a separate report to the fund each month pursuant to s. 66.903 (2) (e) for such judges whose normal contribution rate is 5 per cent unaccompanied by any municipality contribution. This report shall exclude all fees and all salary as juvenile judge. The fund shall consolidate all of such reports each month and apply to the total participating earnings shown thereon the municipality contribution rate for the state and transmit such consoli-

dated report to the director of budget and accounts together with a voucher for payment to the Wisconsin retirement fund from the general fund of the municipality contribution payable thereto as indicated by the consolidated report so submitted. Thereupon the director of budget and accounts shall promptly approve such voucher for payment and the state treasurer shall forthwith issue his check therefor to the Wisconsin retirement fund.

History: 1951 c. 552, 722; 1953 c. 461, 467, 631; 1955 c. 55, 486, 655; 1957 c. 60, 533.

See note to 50.03, citing 40 Atty. Gen. 356.

66.906 Compulsory retirement; annuities. (1) COMPULSORY RETIREMENT. (a) Any participating employe, except an appointed state officer, who has attained age 65 or more on the effective date shall be retired at the end of his first month as a participating employe and any participating employe who attains the age of 65 shall be retired at the end of the month in which such age is attained, unless written notice is received by the board certifying that the governing body of the municipality by which such employe is employed has specifically authorized such employe to continue in employment for a period not to exceed one year beyond such date, or not to exceed one year beyond the date of expiration of any previous certification date, or until the end of the current term if chosen for a definite term, in which event such employe shall be retired at the expiration of the period designated in the last certification for such continuance on file with the board. The employment of a participating employe who is an appointed state officer less than 65 years of age on January 1, 1948 or a state employe who is the head of a state department, board or commission may be continued only upon receipt by the board of such a written notice from his appointing officer, board or commission who or which shall act as the governing body under this subsection for the sole purpose of granting such continuances.

(c) Subject to the provisions of pars. (a) and (b) a participating employe who is a policeman, fireman, state traffic officer, state conservation warden, state forest ranger or other state conservation department employe subject to the 5 per cent normal contribution rate who has attained age 60 or more on the effective date for that participating municipality shall be retired at the end of his first month as a participating employe. Any such participating employe who attains age 60 shall be retired at the end of the month in which such age is attained. Any such participating employe who attains age 60 prior to July 1, 1958, shall be retired as of July 1, 1958.

(e) All undersheriffs, deputy sheriffs and traffic policemen subject to the 5 per cent normal contribution rate employed by a county that has acted pursuant to s. 66.904 (1) (a) 12 shall be subject to par. (c).

(1a) JUSTICES AND CIRCUIT JUDGES. Each supreme court justice and circuit judge included under this fund who shall have attained age 70 or more on or before September 30, 1952, shall be retired at the end of his then current term unless he retires prior thereto, and each supreme court justice and circuit judge who attains age 70 thereafter shall be retired at the end of the month in which such age is attained except as hereinafter provided. Any circuit judge who would attain age 70 after September 30, 1952 and during his term which commenced prior to January 3, 1951 who has not elected to be included under the fund may elect to be so included within 60 days after June 25, 1953, in which event he shall be retired at the end of such term unless he retires prior thereto. At the time that any such circuit judge files with the fund his election to be included therein he shall make to such fund all of the employe contributions thereto which he would have made if he had become a participating employe effective January 1, 1952 and thereupon he shall be considered a participating employe as of January 1, 1952. This subsection shall supersede the provisions of sub. (1) for supreme court justices and circuit judges.

(1b) COUNTY JUDGES. Each county judge included under this fund shall cease to hold office and shall be retired at the end of the month in which he shall attain the age of 70 years, except that any county judge who shall have filed his official oath as county judge on or before January 1, 1954, may at his election serve out the term for which such oath was filed. This provision shall supersede the provisions of sub. (1) for county judges.

(1c) OTHER JUDGES. Each full-time judge of a court of record, municipal or inferior (other than a county court), included under this fund shall cease to hold office and shall be retired at the end of the month in which he shall attain the age of 70 years, except that any such judge who shall have filed his official oath as judge on or before July 1, 1956, may at his election serve out the term for which such oath was filed. This provision shall supersede the provisions of sub. (1) for such judges.

(1d) ELECTIVE STATE OFFICERS. Each state officer elected by the vote of the people, other than a justice of the supreme court or a judge, who becomes a participating employe pursuant to s. 66.901 (5) (i) and who has attained age 65 when electing to participate shall be retired at the end of the then current term. Any such state officer who attains age 65 after electing to become a participating employe shall be retired on the date of the

expiration of the term in which he attained age 65. In either case any subsequent election of such a state officer after age 65 by the voters shall constitute the notice required under sub. (1) (b) authorizing such elected state officer to serve for the duration of the term for which he was elected.

(2) RETIREMENT ANNUITIES. (a) The following described persons shall be entitled to retirement annuities, beginning on the dates hereinafter specified:

1. Any participant who, regardless of cause, is separated from all municipality service the compensation for which either exceeds $100 for any calendar month or is subject to normal contributions, and who has not been in the service of any municipality between the date of such separation and the date such annuity is approved. Notwithstanding the service restriction in the first sentence a participant may while the application is pending, but not less than 30 days after having been separated as required herein, re-enter service for which the compensation otherwise would be subject to normal contributions, provided such compensation does not exceed $100 for any calendar month, in which case such compensation shall not be treated as participating earnings.

2. Such annuities shall begin on the date specified by the participant in the written application therefor, provided such date is not prior to the date of separation from the last participating municipality by which such participant was employed, and provided such date is not more than 60 days prior to the date of receipt of such application by the board; and provided the credits of the participant are sufficient as of such date to provide an annuity of at least $10 beginning immediately; and provided the participant has attained the age of 55. No application shall be filed with the board unless the date therein specified on which an annuity is to begin is not later than 90 days after the date of receipt of such application by the board.

(b) The initial amount of any retirement annuity shall be determined in accordance with the prescribed rate of interest and the approved actuarial tables in effect on the date of approval of such annuity by the board and shall be the sum of the following:

1. The annuity which can be provided, on the date such annuity begins, from the total accumulated additional and normal credits of the participant at such time, and

2. The annuity which can be provided on the date such annuity begins from the total accumulated municipality and prior service credits of the participant at such time subject to the following limitations:

a. Except in the case of a justice or judge expressly permitted by law to serve the balance of the current term beyond age 70, the amount of accumulated municipality credits applied to provide the annuity shall not exceed the amount of such accumulated credits at age 70.

b. The amount of accumulated prior service credits so applied shall not exceed the amount which would result in an annuity provided by all credits other than additional credits equal to 60 per cent of the final rate of earnings.

(3) ALTERNATIVE RETIREMENT ANNUITIES. (a) Notwithstanding any other provision of sections 66.90 to 66.918, any participant who is eligible to receive an ordinary retirement annuity under section 66.906 (2) may elect, in lieu of such annuity, to take the actuarial equivalent thereof as a retirement annuity payable monthly for the life of the participant as the annuitant, with a guaranty of 180 monthly payments, and in the event of his death before 180 monthly payments have been made, the remainder of the 180 monthly payments shall be continued to one beneficiary or divided as specified by the participant, and equally if not specified, between 2 or more beneficiaries designated by such participant, until payments shall have been made for 180 consecutive months after such annuity began.

(aa) Notwithstanding the death of an applicant for a retirement annuity under this subsection while such application is pending, the annuity applied for shall be payable if the board had received the application within 30 days of the date of termination of employment. Delivery of an application by an employe to the municipal agent of an employer municipality at any time during 1954 constitutes receipt of the application by the board under this paragraph.

(b) Upon the death of the annuitant who was the participating employe before payment has been made for 180 months, the then present value of the remainder of such payments shall be paid as a death benefit under section 66.908 to the estate of such annuitant where such estate was designated as the beneficiary or where no beneficiary was designated or where no designated beneficiary survives.

(c) In the event of the death of any designated beneficiary prior to the death of the annuitant who was the participating employe, then upon the death of the latter, the then present value of the benefit, if any, which would have been payable to such deceased beneficiary had he survived, shall be payable as a death benefit under section 66.908, unless an alternate beneficiary survives.

(d) Upon the death of any designated beneficiary after he has become entitled to receive monthly payments hereunder, the then present value of the remainder of his benefit shall be paid as a death benefit under section 66.908.

(e) Whenever a participant elects to take an annuity provided for under this subsection, then upon the death of such participant, no death benefit shall be payable under the provisions of section 66.908 (2) (c).

(f) A justice of the supreme court, a circuit judge, a county judge or a full-time judge of any other court of record who is eligible to receive an ordinary retirement annuity under s. 66.906 (2) may elect, in lieu of such annuity, to take the actuarial equivalent thereof as a retirement annuity payable monthly for the life of the participating employe as the annuitant, with a guaranty of 120 monthly payments, in which event all of the provisions of pars. (a) to (e) shall be applicable except that wherever the figure "180" appears in said paragraphs the figure "120" shall be substituted.

(g) If the amount of the monthly payments to a beneficiary of an annuitant under this subsection is less than $10, such monthly payments shall not be paid, but in lieu thereof the then present value of such monthly payments shall be paid to such beneficiary upon the death of the annuitant. Any beneficiary entitled to receive monthly payments amounting to less than $10 under a retirement or beneficiary annuity granted prior to October 1, 1957 may elect at any time to receive the then present value of the remainder of his benefit.

(3a) OPTIONAL FORM OF ANNUITY. (a) Notwithstanding any other provisions of ss. 66.90 to 66.918, any participant who is eligible to receive an ordinary retirement annuity under sub. (2) may elect, in lieu of such annuity, to take the actuarial equivalent thereof as an annuity payable monthly to the participant during life, and after the death of the participant, monthly payments of 75 per cent of the monthly amounts payable to the participant, if living, to be continued to such one beneficiary during life as the participant shall have designated in his original application for an annuity.

(b) Whenever a participant elects to take an annuity provided for under this subsection, then upon the death of such participant, no death benefit shall be payable under the provisions of section 66.908 (2) (c).

(3b) OPTIONAL INTEGRATED ANNUITY. Notwithstanding any other provision of ss. 66.90 to 66.918, any participant who is eligible to receive an ordinary retirement annuity under sub. (2), which annuity is to begin prior to the participant's sixty-fifth birthday, may elect, in lieu of such annuity, to take the actuarial equivalent thereof as: (a) a reduced annuity payable monthly for life, plus (b) a temporary annuity payable monthly and terminating with the payment due in the month in which the participant attains age 65. It is the intent of this option that so far as is practicable the aforesaid life annuity and temporary annuity will be determined in such relative amounts that the participant's total anticipated retirement benefits from the fund and from primary social security will be the same both before and after attainment of age 65, assuming that the participant has no further wages credited to his account under the federal old-age and survivors insurance system after ceasing to be a participating employe. Section 66.908 (2) (c) shall apply to an annuity granted under this subsection.

(3c) OTHER FORMS OF ANNUITIES. In addition to the optional forms of annuities permitted under this section the board may by rule establish such additional optional forms of annuities as it deems desirable. Such additional forms of annuities shall be based on actuarial equivalent values, with due regard to selection against the fund.

(4) RE-ENTRY INTO SERVICE. (a) Notwithstanding the fact that any annuity is payable for life, if any annuitant under age 65 receiving a retirement annuity enters the service of any participating municipality by which he was employed within 5 years prior to the beginning date of the annuity, the annuity payable to such annuitant at that time shall be terminated as of the end of the month prior to the date upon which such person received total earnings in all such services in excess of $1,200 in any calendar year. Earnings under this subsection shall be construed to include also any payment received from any municipality for personal services, including services performed on a contractual basis. No annuitant shall be deemed to be a participating employe.

(b) Upon subsequent retirement, a former annuitant shall be required to accept the same form of annuity as that under which he initially retired, and if such annuity is an optional annuity provided under sub. (3a), the same beneficiary. Upon such subsequent retirement, the annuity may not commence until after the lapse of a period following the termination date of his previous annuity equal to the aggregate of one month for each full $200 of earnings received in the month in which the $1,200 limitation was exceeded.

(5) NOTICE OF EMPLOYMENT. Whenever any participating municipality employs any person who is entitled to receive a retirement annuity from the fund, and who was formerly an employe of that municipality, the municipality shall give written notice of such

employment to the fund within 15 days of the date of such employment specifying in such notice the name of the employe, his birth date and the date when his new employment began.

History: 1951 c. 475, 476, 519, 690, 722, 735; 1953 c. 61, 246, 304, 461, 641; 1955 c. 41, 55, 486, 572, 655; 1957 c. 60, 83, 179, 381, 550, 668.

A state employe, on retiring, made application for an alternative retirement annuity which under (3) (a) (Stats. 1947), would be with a guaranty of 180 monthly payments and in the event of his death the "remainder" of such monthly payments to be "continued" to his designated beneficiary; the application was received and acknowledged by the board of trustees of the retirement fund, but the board did not act on the application and no annuity payments had been made to the retired employe at the time of his death. His widow, the designated beneficiary, was nevertheless entitled to the benefits of such annuity, as against a contention that the retired employe must have become an annuitant and that one or more payments must have been made to him in order that there be a "remainder" to be expended in "continued" payments to the beneficiary surviving him. Since all that remained to be done was formal approval of the application, mandamus was a proper remedy to compel the board to approve the application and pay benefits thereunder to the employe's widow and designated beneficiary, since the board's only duty was a ministerial one, and the provisions of 66.918 (3) that actions of the board should be reviewable only by certiorari did not apply where the board had taken no action. State ex rel. Morse v. Christianson, 262 W 262, 55 NW (2d) 20.

A circuit judge who is a participating employe under the Wisconsin retirement fund and who was over 70 years of age on September 30, 1952, must retire at the end of his present term, which expires the first Monday in January, 1958, unless he voluntarily retires prior thereto. 41 Atty. Gen. 383.

66.9065 Variable annuities. (1) (a) Any participating employe may by written notice to the fund elect to provide for a variable annuity through a segregation of credits in his account to be accumulated from future contributions. Such notice of segregation shall be effective as of the beginning of the calendar quarter year following its receipt by the fund.

(b) Such segregation shall continue during all service as a participating employe for the same or any other participating municipality and may not be reduced.

(c) Any segregation may be increased in the manner provided under par. (a), and when increased shall be subject to the provisions of par. (b).

(d) The total amount segregated under this subsection shall not exceed one-half of the normal contribution.

(2) A portion of the municipality credit for current service provided by s. 66.904 (1) (a) 2 c which is equal to the amount of the normal contribution segregated by a participating employe for a variable annuity pursuant to sub. (1) shall also be segregated for a variable annuity for that person.

(3) In the case of any participating employe currently contributing toward a variable annuity any subsequent additional contribution made pursuant to s. 66.903 (2) (a) 2 shall be segregated for a variable annuity.

(4) (a) Any participating employe who has acted pursuant to sub. (1) may by written notice to the fund provide that a specified amount of the credits accumulated in accounts in his name pursuant to s. 66.904 (1) (b) be segregated for a variable annuity. The aggregate amount so segregated shall not exceed 10 per cent of the accumulated credits in all his accounts as of the beginning of the calendar year in which the original notice under sub. (1) is effective. Such segregation shall be effective as of the beginning of the calendar quarter year following the receipt by the fund of such notice and shall be improved with interest for each month of the current year prior to such segregation at one-twelfth of the effective rate of interest for the preceding year.

(b) At intervals of not less than 12 months thereafter either by filing a separate written notice or by so directing in a prior written notice pursuant to par. (a) or this paragraph, he may provide for the segregation of credits for a variable annuity in the same manner as under par. (a) in an amount not in excess of the amount computed under the 10 per cent segregation limit as originally determined under par. (a), but the aggregate segregation of accumulated credits under this subsection shall not exceed 50 per cent of the accumulated credits in all his accounts as at the beginning of the calendar year in which the original notice under sub. (1) was effective.

(c) In effecting such segregation the accumulation of additional credits as of the beginning of the calendar year shall first be segregated until exhausted; next equal amounts of the accumulation of normal credits and municipality credits shall be segregated until such accumulations as of the beginning of the calendar year have been exhausted; finally accumulated prior service credits shall be segregated to the extent required.

(5) The board shall, except as specifically provided herein, have sole discretion to establish rules governing the amount of segregations for a variable annuity, which without limitation because of enumeration shall include the form, time and procedure for filing the notices, the minimum, maximum and unit amounts which may be segregated, both from current contributions and accumulated credits, the increasing of the amounts segregated, and other appropriate regulations. Such rules, among other things, shall fix procedures governing the operation of the variable annuity division, the frequency with

which variable annuity payments are to be varied, and the mechanics of allocating the results of investment experience to the accounts of individuals having credits in the variable annuity division. The present value of any variable annuity at any time shall be determined in conformity with the actuarial tables in effect at such time.

(6) (a) Within the accounts maintained for each individual participant there shall be maintained a record of the amount of each type of credit segregated for a variable annuity. Credits so segregated shall not be credited with interest as provided in s. 66.904 (1) (b) 1 and 2, but in lieu thereof net gains or losses shall be credited or debited as the case may be as follows:

1. All balances so segregated at the beginning of each year remaining so segregated at the end of the year shall then be credited or debited at the rate of net gain or loss for the year.

2. All amounts so segregated during the year pursuant to sub. (4), or because re-establishment of credit after cancellation of an annuity due to re-entrance into the service, remaining so segregated at the end of the year shall then be credited or debited at one-twelfth of the rate of net gain or loss for the year for each full month from the date so segregated to the end of the year.

(b) Credits segregated for a variable annuity at the beginning of each year and all amounts so segregated within the year pursuant to sub. (4), or because of re-establishment of credit after cancellation of an annuity due to re-entrance into the service, not remaining in such accounts at the end of the year because of the granting of annuities or death benefits during the year shall be credited with interest, on the first day of the month in which the first annuity or death benefit payment is due, for each full month elapsing between the first day of the year or the date of credit, as the case may be, and the first day of the month in which such first annuity or death benefit payment is due, at one-twelfth of the effective rate of interest for the previous year.

(c) Fractions less than one-tenth per cent in the rate of net gain to be credited to any account pursuant to this subsection shall be disregarded.

(7) (a) Notwithstanding any other provisions of the statutes, the funds of the variable annuity division shall be invested primarily in common stocks which qualify as investments under the applicable provisions of s. 201.25 (1) (ff) and (fg), real estate, and securities which are convertible into such common stocks, and all of such funds shall be excluded in computing the 15 per cent limitation provided for in s. 25.17 (2b).

(b) The value of all securities and of uninvested funds of the variable annuity division shall notwithstanding the provisions of s. 66.916 (2) be determined periodically on the basis of their then market value at intervals specified in the rules. The market value shall be the value certified by the Wisconsin investment board. For listed securities such shall be determined as of the close of the final market day at the end of the period; for unlisted securities it shall be determined to be the bid price; for real estate it shall be determined to be the value as appraised at intervals fixed by the board of trustees. The net gain of the variable annuity division for any period shall be the excess of 1. the increase within the period in the value of the assets of the variable annuity division resulting from income from the investments thereof and from the sale or the appreciation in value of any investment thereof; over 2. the decrease within the period in the value of such assets resulting from the investment expenses of the variable annuity division and from the sale or the depreciation in value of any investments thereof. If the decrease exceeds the increase the amount of such excess shall be the net loss of the variable annuity division for the period.

(c) The rate of net gain or loss for any period shall be determined by dividing the amount thereof by the average of the amounts of the assets of the variable annuity division at the beginning of each month in the period. Any net gain or loss of the variable annuity division not credited or debited to participants' accounts pursuant to sub. (6) (a) or (b) or to the reserve for variable annuities granted account pursuant to sub. (9) at the end of any period shall be considered in the determination of the rate of net gain or loss for the ensuing period.

(8) (a) A retirement annuity or beneficiary annuity provided pursuant to s. 66.906 or 66.909 by available accumulated credits which include amounts segregated for a variable annuity shall consist of a fixed annuity and a variable annuity, the respective initial amounts of which shall be determined on the basis of the ratio of the available accumulated credits of the participant not segregated for a variable annuity (which shall be deemed to provide a fixed annuity) to the accumulated credits segregated for a variable annuity on the date his annuity begins or his death occurs.

(b) A disability annuity granted pursuant to s. 66.907 to a participant whose accounts include amounts segregated for a variable annuity shall consist of a fixed annuity and a variable annuity, the respective initial amounts of which shall be determined on the basis

of the ratio of all classes of the accumulated credits of the participant not segregated for a variable annuity at the date of the disability annuity begins, to his accumulated credits so segregated at that date.

(c) If the initial amount of the variable annuity so determined is less than $10 the entire annuity shall be a fixed annuity.

(d) If the initial amount of the variable annuity so determined is at least $10 and the amount of the fixed annuity is less than $10 the entire annuity shall be a variable annuity.

(9) (a) All accumulated credits applied to provide variable annuities shall be credited to the reserve for variable annuities granted account and all variable annuity payments shall be charged to that account.

(b) The balance at the beginning of any year in the reserve for variable annuities granted account, as adjusted by transfers thereto and payments therefrom, shall not be credited with interest as provided by s. 66.916 (4) but shall be credited or debited, as the case may be, at the end of the year with net gain or loss at the rate of net gain or loss of the variable annuity division for the year.

(10) (a) Periodically the amount payable with respect to all variable annuities previously granted shall be redetermined so as to reflect the net gain or loss of the reserve for variable annuities granted as determined by rule in accordance with actuarial procedures approved by the board of trustees on a basis which it deems appropriate from time to time and without limitation as to the nature of the procedures that may be adopted. The board of trustees may for as long as it deems desirable provide that the variation in the amounts payable under variable annuities shall not be affected by the fluctuations in the mortality experience under variable annuities granted.

(b) In conformity with the rules the executive director shall certify to the director of budget and accounts the rates of increase or decrease in the variable annuities previously approved, and the director of budget and accounts shall make payments accordingly until a new certification is made.

(11) In addition to the changes made pursuant to sub. (10) variable annuities granted under ss. 66.906 (3a) and (3b) and 66.907 (2) shall be changed in conformity with the subsection under which granted.

(12) (a) Whenever any person having credits segregated for a variable annuity ceases to be a participating employe:

1. If the total accumulated credits segregated for a variable annuity as of the beginning of the year in which the date of separation occurs aggregates less than $2,000 such credits shall be credited to the fixed annuity account of such person at the end of the following calendar year unless previously terminated pursuant to s. 66.904 (1) (b) 4.

2. If the total accumulated credits segregated for a variable annuity as of the beginning of the year in which the date of separation occurs aggregates $2,000 or more such person shall automatically be deemed to have irrevocably renounced all rights to a separation benefit under s. 66.91 unless the application for such separation benefit is received by the board within one year after such termination of employment.

(13) This section shall be effective at the beginning of the calendar year 1958 but the required written notice under sub. (1) may be given previously by a participating employe.

(14) This section shall not be operative, except for the filing of written notice, until the beginning of the second calendar month after 500 written notices have been filed with the fund pursuant to sub. (1).

History: 1957 c. 381.

66.907 Disability annuities. (2) (a) The following described persons shall be entitled to disability annuities, beginning on the dates hereinafter specified:

1. Any participating employe who has not attained age 65 and irrespective of the amount of accumulated credits at the time, is separated from the service of all participating municipalities, and who at such time is totally disabled, either mentally or physically, by a disability which is likely to be permanent. A person shall not be deemed to be disqualified solely because he is able to perform the duties of any position for which the compensation does not exceed $1,200 in any calendar year. The participating municipality shall certify to the fund that such separation occurred because of the disability. For the purposes of this subsection a participant shall, within the limitations of s. 66.903 (1) (b), be considered to be a participating employe on leave of absence, notwithstanding the fact that no formal leave of absence is in effect, if no other employment has intervened since service for the participating municipality, and if the termination of active service for the participating municipality was due to such disability.

2. Except for a disability arising out of employment for a participating municipality, no participating employe shall be eligible for a disability annuity until he has completed at least 20 calendar quarter years of service for such participating municipality in a position for which he received either current service or prior service credit.

3. Such annuities shall begin on the date such disability occurred, unless written application for such benefits is not received by the board within 60 days of such date, in which case, benefits shall begin to accrue on the day 60 days prior to the receipt of such application, or unless all earnings have not ceased to be payable to such employe on such date, in which case, benefits shall begin on the day following the day for which the last payment of earnings to such employe is made by any employing municipality.

(b) A participating employe shall be considered totally and permanently disabled only after the board shall have received:

1. Written certification by at least 2 licensed and practicing physicians approved or appointed by the board, that the employe is totally and likely to be permanently disabled, for performance of the duties of any position, and

2. Written certification by the governing body of each of the employing municipalities that such employe has been separated from the service because of a total disability of such a nature as to reasonably prevent performance of the duties of any position and as a consequence is not entitled to any earnings from such municipality.

(c) The amount of any disability annuity shall be the greater of the following:

1. The amount that can be provided from the total accumulated credits of the employe on the date such annuity begins; or

2. The sum of the amount of the annuity that can be provided from the accumulation of additional credits on the date the disability annuity begins, plus the lesser of the following amounts: 50 per cent of the final rate of earnings, or 1½ per cent of the final rate of earnings multiplied by the number of years of prior service and of current service including in the latter assumed service between the date the disability occurred and the date on which the applicant will attain the age of 65. The number of such total years shall be determined to the nearest full year. Whenever the applicant shall qualify for disability benefits or for old-age benefits as a retired worker under the federal old-age and survivors insurance system, the amount of his disability annuity, other than the amount attributable to his additional contributions, shall be reduced by 40 per cent of the amount thereof, but in no event shall such reduction lower the disability annuity below that which could have been provided under subd. 1. Such reduction shall be effective with the annuity for the fourth month after the attainment of age 50, or after the annuity is approved if over age 50, except during such period as the disability annuitant shall furnish evidence to the fund that he is not eligible for benefits from the federal old-age and survivors insurance system.

(d) The board may require that any annuitant receiving a disability annuity shall be examined by at least one licensed and practicing physician appointed by the board during any period such annuitant shall receive such annuity and prior to age 65. A written report of such examination which shall indicate whether or not the annuitant is still totally and permanently disabled, shall be filed with the board by each such physician.

(e) If the report of any such physician indicates that the annuitant has recovered from disability and is able to perform the duties of any regular position for which the annual compensation exceeds $1,200, or if the annuitant refuses to submit to such examination, the disability annuity shall terminate as of the end of the month previous to the date of determination by the board of such recovery or refusal. Thereupon, if the annuity which can be provided on such date of termination from the present value of the portion of the terminated disability annuity originally provided by accumulated credits of the employe:

1. Is equal to at least $10 beginning immediately, such annuitant shall be entitled to a retirement annuity of the amount which can be so provided, beginning upon the date of termination of the disability annuity, or

2. Is equal to less than $10 beginning immediately, such annuitant shall be for the purposes of this fund, classified as an employe and shall be credited as of the date of termination of the disability annuity with additional, normal, municipality and prior service credits of amounts equal to the then present value of the portion of the terminated annuity which was originally provided by the corresponding type of credit.

(f) Notwithstanding the fact that a disability annuity is granted for life, if any disability annuitant shall receive or shall have received payment for personal services including any service performed on a contractual basis in any calendar year in excess of $1,200 in cash or the equivalent in value such annuity shall be suspended by the board. Such annuity may be reinstated by the board as of the beginning of the month following board action, upon a showing by the annuitant that such personal services have terminated. The board may require certifications as to such payments for personal services prior to the subsequent issuance of annuity checks.

(g) Any person entitled to payments under this subsection who may otherwise be entitled to payments under s. 66.191 may file with the board and the industrial commission

a written election to waive payments due under this subsection and accept in lieu thereof such payments as may be due under s. 66.191, but no person shall receive payments under both s. 66.191 and this subsection.

History: 1951 c. 722; 1953 c. 246, 396, 634, 640; 1955 c. 41, 262, 283, 655; 1957 c. 60, 83, 610.

66.908 Death benefits. (1) The following described persons shall be entitled to death benefits, in the form and at the times hereafter specified:

(a) The beneficiary of any participant or of any annuitant on the date of death of the participant or annuitant, or if any beneficiary dies before his application for the death benefit is acted upon by the board, the surviving beneficiaries of the participant or annuitant.

(b) Such death benefits shall be paid in the form of a single cash sum except where an annuity is payable under the provisions of section 66.909.

(c) Whenever any death benefit is payable in a single cash sum, it shall be paid to the beneficiary as soon as practicable after receipt by the board of: 1. A certified copy of the death certificate of the participant or annuitant; 2. a written application of the beneficiary for such benefit, and 3. such additional evidence as the board deems necessary or desirable.

(2) The amount of the death benefit shall be:

(a) Upon the death of a participating employe, or upon the death of an applicant for a retirement annuity, whose application had been received within 30 days after termination of the employment and who would have been entitled to such annuity had he lived, the sum of: 1. The accumulated normal credits of such employe on the date of death, or $500, whichever is the greater, and 2. the accumulated additional credits of such employe on the date of death.

(aa) Upon the death of a participating employe, or upon the death of an applicant for a retirement annuity, other than an annuity authorized by s. 66.906 (3), whose application had been received within 30 days after termination of employment and who would have been entitled to such annuity had he lived, which participating employe or applicant had at the time of his death prior or current service credit, or both, for at least 20 calendar quarter years as a participating employe for any one participating municipality, if the beneficiary or beneficiaries to whom the death benefit is payable are a spouse, parent, child (including legally adopted child), grandchild, brother or sister of such employe or applicant, the death benefit provided under par. (a) or, if greater, an amount equal to the accumulated normal, additional, municipality and prior service credits of such participating employe or applicant on the date of his death; except that the total accumulated municipality and prior service credits used to provide the total death benefit shall not exceed such respective credits which could have been used to provide an annuity for the deceased participating employe or applicant at the time of his death, assuming that an annuity could have been granted to him at such time. If the death is determined under ch. 102 to have arisen out of employment in a position which under ss. 66.90 to 66.918 qualified the deceased as a participating employe the 20 calendar quarter years service requirement herein is not applicable.

(ab) For the purposes of this subsection a participant shall, within the limitations of s. 66.903 (1) (b) be considered a participating employe on leave of absence, notwithstanding the fact that no formal leave of absence is in effect, if no termination of employment forms shall have been filed by the participating municipality. If while on a leave of absence death arises from employment by any employer other than the participating municipality for which a person currently has the status of participating employe there shall be deemed to have been a termination of employment and the beneficiaries of that person shall not be eligible for a death benefit under this paragraph.

(b) Upon the death of a participant after such participant has been separated from the service of all participating municipalities but before becoming an annuitant, except as provided in pars. (a), (aa) and (c), the sum of the accumulated additional and normal credits of such participant as of the beginning of the year in which the date of separation occurs plus any normal or additional contributions which may have been made to the fund after the beginning of such year.

(c) Upon the death of a person receiving a disability or retirement annuity, or a person who had been granted a disability or retirement annuity which had not commenced, the excess of the sum of the accumulated additional and normal credits of such annuitant which were used at the time the annuity began to provide the disability or retirement annuity, over the sum of all annuity payments to which he had become entitled prior to his death. Such death benefit shall be at least $500 less the sum of all annuity payments to which he had become entitled prior to his death.

(d) Upon the death of an annuitant receiving a beneficiary annuity, the excess of the accumulated normal and additional credits of the employe which were used at the time the

annuity began, over the sum of all annuity payments to which such beneficiary had become entitled prior to his death.

(e) Upon the death of a person granted or receiving a disability annuity, if a beneficiary or beneficiaries to whom a death benefit is payable are a wife, minor child, or dependent husband designated as beneficiaries on the date the disability annuity was approved, the present value, at the date of death of such annuitant, of a beneficiary annuity (terminating in the case of a minor child at the end of the month in which he shall reach the age of 21) of the monthly amount to which such beneficiary would have become entitled if death had occurred on the day prior to the date on which the disability annuity commenced. For the purposes of this paragraph, the $10 minimum annuity provision in s. 66.909 (1) shall be disregarded and present values shall be determined in accordance with the prescribed rate of interest and approved actuarial tables in effect on the date of approval of such death benefit by the board. Payment hereunder shall be completely in lieu of any payment to such beneficiary under par. (c), provided that if the death benefit payable to such beneficiary under this paragraph would be less than the amount determined under par. (c) the death benefit shall be payable under par. (c) and this paragraph shall not be applicable to such beneficiary.

(f) If any person, for whom credits have been re-established pursuant to s. 66.904 (1) (a) 3 upon his re-entry into service, shall die within 3 years after such re-entry, the credits so re-established shall not be payable as a death benefit under sub. (2) (a) or (aa), but in lieu thereof a death benefit shall be payable pursuant to sub. (2) (c), notwithstanding the provisions of s. 66.906 (3) (e) and (3a) (b), to which shall be added the amount of the accumulations on the date of death from the normal and additional contributions made by the employe after the date of the termination of his annuity.

History: 1951 c. 552, 722; 1953 c. 246, 350; 1955 c. 41, 54, 55, 283, 655; 1957 c. 60, 83.

66.909 Beneficiary annuities. (1) If the amount of any death benefit is sufficient to provide an immediate annuity of at least $10 for the beneficiary, the death benefit shall be paid in the form of annuity of such amount as can be provided from the death benefit on the date such annuity begins, provided:

(a) The beneficiary is the widow or minor child of the participant or annuitant, or

(b) The beneficiary is other than the widow or minor child of the participant or annuitant, but such beneficiary has specified in the application for the death benefit, or the participant has so specified in a written notice received by the board prior to his death, that such benefit shall be paid as an annuity.

(c) A beneficiary who is a spouse may, in lieu of a life annuity, elect to receive an annuity pursuant to s. 66.906 (3) and all of the provisions of s. 66.906 (3) relating to a participant shall apply to such spouse except that the provisions of s. 66.906 (3) (aa) shall be completely inapplicable.

(cc) A beneficiary who is a widow of a participant or annuitant may, in lieu of a life annuity, which annuity is to begin prior to the widow's sixty-second birthday, elect to take the actuarial equivalent thereof as:

1. A reduced annuity payable monthly for life, plus

2. A temporary annuity payable monthly and terminating with the payment due in the month in which the widow attains age 62.

It is the intent of this option that so far as is practicable the aforesaid life annuity and temporary annuity will be determined in such amounts that the widow's total anticipated retirement benefits from the fund and her survivors benefit from the federal old-age and survivors insurance system will be the same both before and after attainment of age 62. Section 66.908 (2) (d) shall apply to an annuity granted under this subsection.

(d) The legal or natural guardian of a beneficiary who is a minor child of a participant or annuitant, which participant or annuitant has not specified in a written notice received by the board prior to his death that the death benefit shall be paid as a life annuity, may, in lieu of a life annuity, elect that such beneficiary receive the death benefit in the form of a temporary annuity of $50 per month beginning on the day following the date of death of the participant or annuitant and ending with the monthly payment immediately prior to the beneficiary's twenty-first birthday and a final payment, payable one month after the termination of the temporary annuity, of such amount as can be provided from the death benefit, after providing for the temporary annuity, on the basis of the prescribed rate of interest and the approved actuarial tables in effect on the date of approval of such option by the board, provided:

1. The beneficiary, prior to the payment of the final payment, may, if the amount of such final payment is sufficient to provide an immediate life annuity of at least $10 for the beneficiary, elect to receive, in lieu of such final payment, an immediate annuity commencing on the day following the due date of such final payment.

2. If the death benefit is not sufficient to provide such a temporary annuity of $50 per month, the amount of each such temporary annuity payment shall be reduced to such

amount as can be provided from the death benefit, in which event there shall be no final payment.

3. A temporary annuity granted under the provisions of this paragraph shall be considered a beneficiary annuity for the purposes of determining the death benefit payable under s. 66.908 (2) (d).

(e) The annuity granted to a beneficiary who is a minor child entitled to a death benefit under s. 66.908 (2) (e) shall terminate at the end of the month in which he attains age 21.

(2) Whenever any death benefit is payable in the form of an annuity, such annuity shall begin on the day following the date of death of the participant or annuitant provided the board has received:

(a) A certified copy of the death certificate of the participant or annuitant, and

(b) A written application of the beneficiary for such benefit.

(3) The amount of any beneficiary annuity shall be that which can be provided from the death benefit on the date such annuity begins in accordance with the prescribed rate of interest and the approved actuarial tables in effect on the date of approval of such annuity by the board.

History: 1951 c. 552, 722; 1953 c. 246; 1955 c. 39; 1957 c. 60, 83.

66.91 Separation benefits. The following described persons shall be entitled to separation benefits at the times hereinafter specified:

(1) Any participant who is not employed by a participating municipality and who at the time of application therefor would not be entitled to either a retirement or disability annuity beginning immediately. Subsequent employment by a participating municipality prior to approval of the separation benefit shall cancel the application. Irrespective of the restrictions provided in this subsection any person not entitled to a retirement annuity or a disability annuity shall 6 months after he is last a participating employe become eligible to apply for and receive a separation benefit.

(2) Such separation benefits shall be paid in the form of a single cash sum as soon as practicable after receipt by the board of both a written application by the participant for such benefits, and a written notice from the last employing municipality certifying that such participant has been separated from the service. The amount of any separation benefit shall be the sum of the accumulated additional credits and normal credits of the participant as of the beginning of the year in which the date of separation occurs plus any normal or additional contributions made to the fund during the year in which the date of separation occurs.

History: 1951 c. 722; 1953 c. 246; 1957 c. 60.

66.911 Board of trustees. (1) This fund shall be construed to be a trust and shall be administered by a board of trustees, consisting of a maximum of 9 persons, each of whom shall be designated as a trustee. Each trustee appointed from a city or village shall be appointed from a different county. Each trustee appointed from a county or town shall be appointed from a different county. Each finance trustee, and each employe trustee shall be a participating employe.

(2) The board shall consist of representatives of various groups as follows:

(a) One trustee shall be a chief executive or member of the governing body of a participating city or village and shall be designated as the city or village trustee. The first such appointee shall serve until January 1, 1948.

(b) One trustee shall be a principal finance officer of a participating city or village and shall be designated as the finance trustee. The first such appointee shall serve until January 1, 1947.

(c) One trustee shall be an employe of a participating city or village and shall be designated as the municipal employe trustee. The first such appointee shall serve until January 1, 1946.

(d) One trustee shall be the chairman or member of the governing body of a participating county or town and shall be designated as the county or town trustee. The first such appointee shall serve until January 1, 1949.

(e) One trustee shall be a deputy county clerk of a participating county and shall be designated as the clerk trustee. The first such appointee shall serve until January 1, 1948.

(f) One trustee shall be an employe of a participating county or town and shall be designated as the county employe trustee. The first such appointee shall serve until January 1, 1947.

(g) One trustee shall be a participating state employe and shall be designated as the state employe trustee. The first such appointee shall serve until January 1, 1954.

(h) One trustee shall be designated as the state trustee. The first such appointee shall serve until January 1, 1955.

(i) One trustee shall be the commissioner of insurance who shall serve ex officio, or such experienced actuary in the insurance department as the commissioner shall designate in a written designation filed with the board, which actuary shall be and serve as trustee until such designation shall have been revoked by the commissioner.

(3) After the original appointment, the term of office of each trustee other than the commissioner of insurance shall begin on January 1 and shall continue for a period of 5 years and until a successor has been appointed and qualified, or until a prior resignation, death, incapacity or disqualification. Any trustee shall be disqualified and cease to be a member of the board upon losing the status upon which his appointment as a trustee was based. Vacancies shall be filled in the original manner for the unexpired term.

(4) Each trustee shall be appointed by the governor. In the case of the city or village trustee such appointment shall be made from a list of 5 names for each vacancy submitted by the executive committee of the League of Wisconsin Municipalities. In the case of the county or town trustee the appointment shall be made from a list of 5 names for each vacancy submitted by the executive committee of the Wisconsin County Boards' Association. Each such list shall be submitted to the governor within 30 days following any vacancy or the expiration of any term requiring such list. All appointments shall be made within 30 days after receipt of any such list or prior to 30 days before the expiration of any term of a trustee not requiring such list. Each trustee shall be notified in writing of his appointment.

(5) All trustees shall serve without compensation, but shall be reimbursed for any reasonable traveling expenses and for the amount of any earnings withheld by an employing municipality because of attendance at any board meeting.

(6) Each trustee shall be entitled to one vote on any and all actions before the board for consideration at any board meeting, and the concurring votes of a majority of all the trustees shall be necessary for every decision or action by the board at any of its meetings. No decision or action shall become effective unless presented at a regular or duly called special meeting of the board.

History: 1953 c. 246.

66.912 Powers and duties. (1) The board shall have, in addition to all other powers and duties arising out of sections 66.90 to 66.918 not otherwise in this section specifically reserved or delegated to others, the following specific powers and duties. The board is authorized and directed to:

(a) Hold not less than 4 regular meetings each year and such special meetings as may be called by the executive director upon the written request of at least 3 trustees. Notice of each meeting shall be mailed to each trustee at least 5 days prior to each meeting. All meetings of the board shall be open to the public and shall be held in the offices of the board, or in such other place designated in the notice of the meeting.

(b) Consider and pass on all applications for annuities and benefits, authorize the payments of all annuities and benefits and terminate any such payment, all in accordance with ss. 66.90 to 66.918. Separation benefits, death benefits, retirement annuities and beneficiary annuities may be processed and paid upon the approval of the executive director and the actuary provided that no such annuity shall be continued beyond the date of the meeting of the board next following the first payment thereof unless the payment of the annuity is then authorized by the board. The executive director with the approval of the legal advisor may suspend an annuity pending final action by the board when in their judgment the annuitant is not eligible to receive such annuity.

(c) Prepare and approve a budget of operating expenses for each calendar year prior to the beginning of such year.

(d) Compel witnesses to attend meetings and to testify upon any necessary matter concerning the fund and allow fees not in excess of the statutory provisions.

(e) Certify all normal employe and municipality contribution rates and the prescribed rate of interest as certified in writing by the actuary and notify all participating municipalities thereof.

(ee) Approve the tables to be used for computing annuities and benefits after certification thereof in writing by the actuary.

(f) Request such information from any participating employe or from any participating municipality as shall be necessary for the proper operation of the fund.

(g) Determine the length of prior service from such information as is available. Any such determination shall be conclusive as to any such period of service unless within 2 years of the issuance of the first individual statement to any employe the board reconsiders any such case and changes the determination.

(h) Establish an office at the capital city in quarters to be provided by the state director of purchases. All books and records of the fund shall be kept in such office.

(i) Appoint an executive director for the purpose of managing the office and carrying out the technical administrative duties of the fund.

(j) Appoint an actuary for the purpose of carrying out all the necessary actuarial requirements of the fund.

(k) Employ such additional actuarial, clerical, medical, legal and other employes as shall be required for the efficient administration of the fund.

(l) Determine and fix the compensation to be paid to the executive director, actuary and other employes.

(m) Have the accounts of this fund audited at least annually by the department of state audit.

(n) Submit an annual statement to the governing body of each participating municipality, and to any participating employe upon request, as soon after the end of each calendar year as possible. Such statement shall include a balance sheet, showing the financial and actuarial condition of the fund as of the end of the calendar year, a statement of receipts and disbursements during such year, a statement showing changes in the assets, liability, reserve and surplus accounts during such year, information as to investments, and such additional statistics as are deemed necessary for a proper interpretation of the condition of the fund. There shall be available to each participant or participating municipality upon written request a detailed statement of investments showing, as of the end of such year, the title of each security, purchase price, coupon rate, effective interest rate, amortized book value, maturity date and amount of due and accrued interest.

(o) Submit an individual statement to any participating employe upon reasonable request of such employe. Such statement shall indicate the amount of accumulations of each type to the credit of such employe as of the end of the latest date practicable.

(p) Accept any gift, grant or bequest of any money or property of any kind, for the purposes designated by the grantor if such purpose is specified as providing cash benefits to some or all of the participating employes or annuitants of this fund; or, if no such purposes are designated for the purpose of distribution to all of the participating employes at the end of the year in the same proportion as the interest at the effective date is allocated for the year.

(q) Determine and direct the state of Wisconsin investment board and the state treasurer as to the limitations on the amounts of cash to be invested in order to maintain such cash balances as may be deemed advisable to meet current annuity, benefit and expense requirements and the general policy to be followed with respect to investments of the fund.

(r) Keep in convenient form such data as shall be necessary for all required calculations and valuations as specified by the actuary.

(s) Keep a permanent record of all the proceedings of the board.

(t) Establish such rules as are deemed necessary or desirable for the efficient administration of the fund and make, amend or repeal rules which shall change the time or period within which or by which or for which reports must be made or other acts must be performed as specified in ss. 66.903 (2) (e), 66.905 (1) (a), (4), (7) and (8), 66.915 (5) and 66.917 (1) (a) or elsewhere in the statutes.

(u) Generally carry on any other reasonable activities which are deemed to be necessary to carry out the intent and purpose of this fund in accordance with the provisions of ss. 66.90 to 66.918.

(v) Delegate all technical and administrative duties and such other powers and duties, other than those designated in subsections (a), (b), (c), (i), (j), (l) and (q) of the powers and duties of the board, as may from time to time be deemed desirable.

(1a) The executive director, upon the certification of the actuary, may correct any annuity or benefit if the total amount of any such correction shall not exceed $5 for any benefit or monthly annuity. The executive director shall report all such corrections at the subsequent meeting of the board.

(2) The executive director shall be in charge of the technical administration of the fund and shall have such additional powers and duties as are properly delegated by the board.

(3) The actuary shall be the technical advisor of the board and in addition to general advice shall specifically be responsible for, and it shall be his duty:

(a) To make a general investigation immediately upon the establishment of the fund and at least once every 3 years thereafter of the experience of the fund as to mortality, disability, retirement, separation, interest and employe earnings rates and to certify as a result of each such investigation, the tables to be used for computing annuities and benefits and for determining the premiums for disability purposes, and the prescribed rate of interest.

(b) To determine the proper rates of municipality contributions in accordance with section 66.905.

(c) To make an annual valuation of the liabilities and reserves required to pay both present and prospective benefits.

(d) To compute and certify the actuarial figures on the annual financial statements of the board.

(e) To certify the amounts of each annuity and benefit granted by the board, and

(f) Advise the board on any matters of an actuarial nature affecting the soundness of the fund or requiring any changes for more satisfactory operation.

(4) The attorney-general of the state of Wisconsin shall be the legal advisor and shall prosecute or defend, as the case may be, all actions brought by or against the board.

(5) The state treasurer shall be the treasurer of the fund and shall be responsible for the proper handling of all the assets of the fund in accordance with the provisions of sections 66.90 to 66.918. The treasurer shall furnish the board a corporate surety bond of such amount as the board may designate, which bond shall indemnify the board against any loss which may result from any action or failure to act on the part of such treasurer or any of his agents. All reasonable charges incidental to the procuring and giving of such bond shall be paid by the board.

History: 1951 c. 511, 722; 1953 c. 158, 246; 1955 c. 55, 262, 366, 655; 1957 c. 60.

66.913 Investment of assets. (1) The assets of the fund, in excess of the amount of cash required for the current operations as determined by the board, shall be invested and reinvested as provided by s. 25.17 (3) (a) and (4).

(2) All securities purchased with assets of the fund or safekeeping receipts therefor shall be kept by the state treasurer in boxes or portfolios clearly marked to indicate the ownership of such securities and receipts by the fund.

History: 1955 c. 204; 1957 c. 697.

66.914 Funds. (1) All money received by the board shall immediately be deposited with the state treasurer for the account of the fund. All disbursements shall be made only upon certification of the executive director pursuant to authorization by the board as properly recorded in the official minute books of the meetings of the board, except that disbursements for securities purchased and the payment of accrued interest thereon and for any other investments shall be made upon certification of the state of Wisconsin investment board.

(2) All investments and other evidences of title to property of the fund when received shall also be deposited with the state treasurer who shall provide adequate safe deposit facilities for their preservation and who shall have custody of all the assets of the fund.

(3) The assets of the fund shall be mingled in one fund, and no particular person or municipality shall have any right in any specific item of cash, investment or other property other than an undivided interest in the whole as provided by ss. 66.90 to 66.918.

(4) The fund may refund any money paid in error into the fund. To effect such a refund the executive director shall certify to the director of budget and accounts the name of each person or municipality entitled to a refund and the amount thereof. Thereupon, and notwithstanding s. 20.555, the director of budget and accounts shall draw his warrant for the amount and in favor of the person or municipality so certified, and the state treasurer shall pay the same and charge it to the appropriation made by s. 20.890 (71).

History: 1953 c. 61.

66.915 Obligations of municipalities. (1) For the purposes of determining the amounts of the obligations of municipalities, each participating municipality shall be charged with the following amounts, as of the dates specified:

(a) For prior service credits, a prior service obligation of an amount equal on the effective date of participation, to all prior service credits granted to the employes of such municipality in accordance with s. 66.904 (1) (a) 1, as of such effective date.

(b) For current service credits, a current service obligation of an amount equal to all municipality credits granted during such year to the employes of such municipality, in accordance with s. 66.904 (1) (a) 2, as of the end of each year.

(c) For death benefits, a current service obligation of an amount equal to the excess of the death benefits granted in the year on account of any employe of such municipality over the available accumulated credits of such employe, as of the end of each year.

(2) As each municipality contribution becomes due, in accordance with s. 66.905 (1) (a) and (5), it shall be prorated in the same proportion that the amount for each purpose under s. 66.905 (2) is of the total of all amounts under such subsection for the corresponding year. The proportions applicable to the prior service obligation, and the current service obligation shall be credited to the corresponding account of the participating municipality from which it is receivable. The proportions of such contributions applicable to disability and expense shall not be credited to the municipality required to make such

contributions, but shall be credited to the respective surplus accounts maintained for disability and expense purposes.

(3) As any payment is received by the fund in accordance with section 66.905 (1) (b), it shall be credited to the prior service obligation or the current service obligation, as the case may be, of the municipality from which it is received, as of the date of receipt.

(4) The surplus or deficiency arising during the year in the prior service credit and municipality credit reserves because of mortality variations and other limitations upon the granting of annuities and benefits, shall be credited or charged, as the case may be, at the end of the year with interest to the end of the year, to the prior service obligation or current service obligation account, as the case may be, of the participating municipality previously charged with the amounts from which any such reserves were accumulated.

(5) Interest for the year, at the prescribed rate, shall be charged or credited as the case may be, at the end of each year, on the balances at the beginning of the year in the prior service obligation account and in the current service obligation account. Interest shall be credited at the end of the year on all contributions for prior service in accordance with s. 66.905 (1) (a) and (5) at the prescribed rate, assuming that all contributions were received by the fund on the due date and also assuming that the contribution for each month was one-twelfth of the total contribution for prior service for the year. Interest shall be credited at the end of the year on all contributions for prior service received in accordance with s. 66.905 (1) (b) at the prescribed rate from the date of receipt. Interest shall be charged an accounts receivable from any municipality, except the state, for both employe and municipality contributions not received by the fund at the end of the calendar month following the due date at the rate of one-twelfth of the effective rate then in effect, for each month or fraction thereof, from the due date to the date received by the fund with a minimum charge of $3, and such interest or minimum charge shall be paid forthwith to the fund, and if it is not paid within 60 days after it is payable, it shall be collected as provided in s. 66.917 (1a). Any such interest chargeable on employe and municipality contributions from a department, board or commission of the state shall be payable if the monthly pay roll report provided for by s. 66.903 (2) (e) is not received by the fund on or before the twentieth day of the calendar month following the due date; when any such interest is payable the board of trustees shall certify the amount thereof with an explanation of such charge, together with a voucher in payment therefor to the director of budget and accounts who shall forthwith approve such voucher and charge the same to the appropriation of the department, board or commission which failed to submit its pay roll report to the board of trustees on time. The state treasurer shall forthwith issue his check or checks therefor to the Wisconsin retirement fund.

(5a) For purposes of charging interest to obligations under section 66.915 (5) and for the purposes of determining rates of municipality contributions, interest computations should be on the basis of 100 per cent of obligations and credits rather than on the actuarially discounted value thereof.

(6) At the end of the year in which the prior service obligation of any municipality is completely amortized, any balance remaining in such account shall be transferred to the current service account of such municipality and thereafter all surpluses and deficiencies arising because of the granting of annuities or benefits or because of variations in mortality in the reserve requirements for prior service credits, shall be credited or charged, as the case may be, to the current service obligation account of such municipality.

(7) Separate accounts shall be maintained for each participating employe and for each municipality. All transactions affecting the employes of any municipality shall be entered in the account applicable to such municipality and no such transactions shall affect the accounts of any other municipality.

(8) Whenever upon the death of any participant any sum shall be due to the fund from that participant which cannot be recovered from the participant under existing statutes, the last participating municipality by which the participant was employed shall be charged with the amount due.

History: 1951 c. 722; 1953 c. 246; 1955 c. 41, 55, 655.

66.916 Surpluses. (1) For the purpose of determining and properly segregating surpluses arising out of the operations of this fund which are to be retained for future variations as distinguished from those which are currently allocated to the participating municipalities, the following surplus accounts shall be created and shall be charged and credited as follows:

(a) All surpluses or deficiencies arising during the year because of mortality variations in the reserves for all annuities previously granted shall be credited or charged, as the case may be, to an annuity payment surplus account. Whenever the balance in such account, whether surplus or deficiency, exceeds 15 per cent of the reserves for all an-

nuities granted, the tables used for the determination of annuities shall be reviewed and revised in such manner as is deemed necessary to reduce such balance.

(b) All surpluses or deficiencies, arising because the municipality contributions for disability purposes provide either more or less than the amounts required to pay disability benefits and to meet the normal credits granted to disabled employes, shall be credited or charged, as the case may be, to a disability benefit surplus account. Whenever the balance in such account, whether a surplus or deficiency, exceeds 100 per cent of the average annual disability payments during the 3 preceding calendar years, the tables of disability premiums shall be reviewed and revised in such manner as is deemed necessary to reduce such balance.

(c) All surpluses or deficiencies, arising because the municipality contributions for death purposes provide more or less than the amounts required to pay the death benefits in excess of those provided by the additional and normal contributions, shall be credited or charged, as the case may be, to a death benefit surplus account. Whenever the balance in such account, whether a surplus or deficiency, exceeds 100 per cent of the average annual death payments, payable from death premiums, during the 3 preceding calendar years, the tables of death benefit premiums shall be reviewed and revised in such manner as is deemed necessary to reduce such balance.

(d) All surpluses or deficiencies, arising because the municipality contributions for expense purposes provide more or less than the amounts required to pay the expenses of the fund, shall be credited or charged, as the case may be, to an expense surplus account. Whenever a balance exists in such account, it shall be included in the basis used for determining the municipality contributions for expense purposes as indicated in section 66.905.

(2) For purposes of determining the interest income for any year, all investments shall be carried at a book value such that yield to maturity, computed as an interest rate compounded annually or semiannually, as the case may be, will remain uniform. No adjustments shall be made in investment valuations for ordinary current market price fluctuations; but reserves may be provided for possible losses as determined by the board. All investment expenses shall be charged to income resulting from interest and profits on investments.

(3) The balances at the beginning of any year in the disability account shall be charged or credited, as the case may be, with interest at the prescribed rate as of the end of each year.

(4) The balance at the beginning of any year in the annuity payment or annuity payment surplus account, as adjusted by transfers thereto and payments therefrom, shall be credited with interest as of the end of each year at the prescribed rate or at the effective rate, whichever is higher.

(5) The board may transfer the balance in the death surplus account which was eliminated by chapter 55, laws of 1955, to any fund account now existing or hereafter created. The board may create such reserves as it deems advisable.

History: 1955 c. 55; 1957 c. 60.

66.917 Authorizations. (1) Each participating municipality shall be:

(a) Authorized and directed to deduct all normal and additional contributions from each payment of earnings payable to each participating employe who is entitled to any earnings from the municipality. All such contributions shall be due and be deposited in the office of the board not later than the end of the month in which the earnings are paid.

(b) Authorized and directed to pay to the board concurrently with each remittance of employe contributions, the corresponding municipality contribution out of the general fund or any special fund from which the earnings, from which the corresponding employe contributions were deducted were paid, except as provided in s. 66.905 (7) and (8).

(1a) Whenever any participating municipality shall fail to pay to the board any of the amounts specified in sub. (1), the board may authorize the executive director to certify such amount or the estimated amount thereof to the director of budget and accounts who shall withhold such amount or estimated amount from the next apportionment or apportionments of state aids or taxes of any kind payable to such participating municipality and shall pay the amount so withheld to the fund. When the exact amount due is determined and the fund shall have received a sum in excess of such amount the fund shall pay such excess amount to the participating municipality from whose aid such excess was withheld.

(1b) If any participating municipality shall fail to transmit to the fund any report which it is required to submit thereto by law or by any rule or regulation established pursuant thereto for 30 days after the date when such report is due, the executive director shall cause such report to be prepared and furnished to the fund. Thereupon the fund shall submit to said participating municipality a statement of the expenses incurred in

securing such report, including the value of the personal services rendered in the preparation of the same. Duplicates of such statement shall be filed in the office of the director of budget and accounts. Within 60 days after the receipt of the above statement by the participating municipality such statement shall be audited as other claims against the municipality are audited and shall be paid into the state treasury and credited to the appropriation made by s. 20.890 (71). In default of payment by the participating municipality, the amount specified in the aforesaid statement shall become a special charge against the participating municipality and shall be included in the next certification of state taxes and charges and shall be collected, with interest at the rate of 10 per cent per annum from the date such statement was submitted to the participating municipality, as other charges are certified and collected, and when so collected such amount and said interest shall be credited to the appropriation made by s. 20.890 (71).

(2) Each participating employe shall, by virtue of the payment of any contributions to this fund, receive a vested interest in the annuities and benefits provided in ss. 66.90 to 66.918 and each such employe in consideration of such vested interest in this fund shall be deemed to have agreed and authorized the deduction of all contributions payable to this fund in accordance with ss. 66.90 to 66.918 from the payments of earnings by the employing municipality.

(3) Payment of earnings less the amounts of contributions provided in ss. 66.90 to 66.918 shall be a full and complete discharge of all claims for payment for services rendered by any employe during the period covered by any such payment.

History: 1953 c. 61, 221, 461; 1955 c. 486.

66.918 Assignments. (1) (a) None of the moneys mentioned in ss. 66.90 to 66.918 shall be assignable, either in law or equity, or be subject to execution, levy, attachment, garnishment or other legal process.

(b) The board may retain out of any annuity or benefit such amount as the board in its discretion may determine, for the purpose of reimbursing the fund for any money paid to any annuitant, beneficiary or participant through misrepresentation, fraud or error. Upon the request of the board any municipality shall withhold from any sum payable by such municipality to an annuitant, beneficiary or participant and remit to the board any amount which the board paid to such annuitant, beneficiary or participant through misrepresentation, fraud or error.

(2) In all cases in which any amounts become payable to a minor or to a person adjudged insane or mentally incompetent, the board in its discretion may waive guardianship proceedings, and pay such amounts to the person providing for, or caring for, such minor, or to the wife, parent or blood relative providing for, or caring for, such insane or incompetent person.

(3) Any action, decision or determination of the board shall be reviewable only by a writ of certiorari, and any party to such certiorari proceedings shall have the right of appeal from the decision of the reviewing court.

(4) The board and the fund shall be held free from any liability for any money retained or paid in accordance with the provisions of this section and the employe shall be assumed to have assented and agreed to any such disposition of money due.

(5) Whenever any annuitant shall receive any annuity payment while in the service of any municipality contrary to the provisions of s. 66.906 (4) or 66.907 (2) (f), it shall be the duty of such municipality to withhold and remit to the board a sum equal to the annuity paid erroneously to the extent of any sums payable by such municipality, and any amount not recovered by the fund from the municipality may be procured by the fund pursuant to s. 66.918 (1) (b) or by action brought against such annuitant or his estate.

History: 1951 c. 722; 1953 c. 246; 1957 c. 60.

See note to 66.906, citing State ex rel. Morse v. Christianson, 262 W 262, 55 NW (2d) 20.

66.919 Group life insurance board. (1) PURPOSE. A program of group life insurance is created for the purpose of providing state employes with group life insurance in amounts based upon their annual earnings under a plan contributed to and conducted by the state through a group life insurance board thereby improving morale and efficiency in state service.

(2) COMPOSITION AND ORGANIZATION. The group life insurance board shall consist of the governor, the attorney general, the commissioner of insurance, the director of personnel and 2 members appointed by the governor. One of the appointees shall be a member of the Wisconsin state employe's association. The first appointments shall be made when this section becomes effective for terms to expire on July 1, 1959, after which date appointments shall be made for terms of 2 years each. The governor shall be the president of said board and a secretary shall be chosen by the board.

(3) POWERS AND DUTIES. (a) The board is empowered to take any action deemed advisable and not specifically prohibited, or delegated to some other governmental agency, to carry out the purpose of this section, including, without limitation because of enumeration, rules and actions relating to:

1. Eligibility of active and retired employes to participate, and giving an option not to participate and to withdraw.
2. The payments by employes for such insurance.
3. The time that changes in coverage and payments shall take effect.
4. The terms and conditions of the insurance contract or contracts.
5. The date such program shall be effective.
6. The establishment of standard beneficiary priorities in the event that the employes shall not have designated a beneficiary to receive the insurance at his death, or in the event that such designated beneficiary shall not survive the employe, and the procedure for filing different beneficiary designations.
7. The kind, amount, and conditions pertaining to benefits available to employes as a result of dividends or premium refunds.

(b) The board shall on behalf of the state from time to time enter into a contract or contracts with one or more corporations authorized to transact insurance business in this state. The group life insurance contract or contracts may be of the type which requires payment of premiums which are known to be sufficient to pay losses and expenses incurred in its operation and which very probably will permit return of overcharges as dividends or rate credits, or of a type which requires lower initial premiums with the probability of greatly reduced or nonexistent dividends or rate credits.

(4) DEFINITIONS. As used in this section, except where the context clearly indicates otherwise, the following words and phrases shall have the following meanings respectively:

(a) "Employe" means any person who meets all of the following conditions:

1. Whose name appears on a regular pay roll of the state or any board, commission or other unit controlled by the state, and who:

a. Receives earnings for personal services.

b. Is a participating employe under the Wisconsin retirement fund or has been for 6 months an active member of the state teachers retirement system or is included under the conservation warden pension fund or is a member of the legislature, governor, lieutenant governor, secretary of state, state treasurer, attorney general, state superintendent of public instruction, justices of the supreme court, circuit judge, chief clerk or sergeant at arms of the senate or assembly.

2. The definition of employe shall not exclude any individual who, while insured for the group life insurance, is retired on an immediate annuity and has then been a state employe for at least 25 years or is 65 years of age or more, or is retired on a disability annuity.

(b) *Exceptions.* The definition of employe shall not include any officer elected by vote of the people, except those enumerated in par. (a) 1.

(c) "Immediate annuity" means an annuity or pension under the Wisconsin retirement fund or the state teachers retirement system or the conservation warden pension fund which begins to accrue not later than one month after termination of employment.

(d) "Disability annuity" means the same as prescribed in s. 42.242, 42.49 (9) or 66.907.

(e) "Earnings" means the total salary or wages paid to an employe by the state during the previous calendar year. If employment and compensation are not continuous during such period, the earnings shall be determined by rule.

(f) "Director" means the executive director of the Wisconsin retirement fund.

(5) GROUP LIFE INSURANCE PROVIDED. (a) Each employe shall be insured in accordance with this section, unless such employe executes and files with his employing office a written waiver of such coverage within the time limit fixed by rule, which shall be transmitted forthwith to the director.

(b) Any employe who has filed a waiver pursuant to par. (a), or any employe whose insurance terminates pursuant to sub. (8) (a) by reason of filing such a waiver, shall not thereafter become insured unless prior to his attainment of age 50 and after at least one year has elapsed since the effective date of such waiver, he furnishes evidence of insurability satisfactory to the insurer, at his own expense. If such evidence is approved, such employe shall become insured from the date of such approval.

(6) AMOUNT OF INSURANCE. (a) Except as provided in par. (b), the amount of group life insurance of an employe shall be $1,000 of insurance for each $1,000 or part thereof of his earnings, but not in excess of any limitation of amount that may otherwise be provided by law.

(b) The amount of life insurance for any employe who is 65 years of age or over is the lesser of the following:

1. If he is then insured, the amount of insurance at the age of 65 as computed under par. (a) reduced by 25 per cent of said amount for each year commencing with his sixty-fifth birthday, with a maximum reduction of 75 per cent.

2. If he is 65 years of age or over when he first becomes insured, the amount as computed under par. (a) reduced by 25 per cent of said amount for each year commencing with his sixty-fifth birthday, with a maximum reduction of 75 per cent.

(c) The amount of insurance of an employe who retires on immediate annuity who has been a state employe for not less than 25 years or who has attained age 65 shall be the same as if he had not retired and his earnings had continued as at the time of his retirement.

(d) The amount of insurance of an employe who retires on disability annuity shall be the same as if he had not retired and his earnings had continued as at the time of his retirement.

(e) For purposes of this section a person on more than one state pay roll shall be included only as an employe of the agency from which he receives the greater portion of his earnings, and the premium for the combined salary shall be deducted by that agency.

(7) PAYMENT OF PREMIUMS. (a) There shall be withheld from the earnings payment of each insured employe under the age of 65 the sum approved by the group life insurance board, which shall not exceed 60 cents for each $1,000 of his group life insurance under this section, based upon the last amount of insurance in force during the month for which such earnings are paid. The equivalent premium may be fixed by the group life insurance board if the annual compensation is paid in other than 12 monthly installments. Such withholdings shall be remitted to the director by the respective boards, departments or other units in which such employes are employed within the time limit fixed by rule. All money received by the director pursuant to this section shall be deposited with the state treasurer to the credit of s. 20.408 (41).

(b) Beginning with the month in which an insured employe reaches his sixty-fifth birthday, no withholdings from his earnings shall be made under this subsection. Withholdings shall not be made from the earnings of an insured employe during a period of disability in which premiums are waived under the terms of the insurance contract.

(c) Beginning with the month in which an insured employe is retired on an immediate annuity and who has then been a state employe for not less than 25 years or who is then age 65, or is retired on a disability annuity, no further withholdings from his earnings shall be made under this subsection and the cost of insurance for such employe pursuant to sub. (6) shall be paid by the state.

(d) The state shall contribute toward the payment of premiums under this section an amount, which together with the employe's contribution, will equal the gross monthly premium for such employe's insurance. Any contribution which may be required from the state shall be made in accordance with s. 20.551 (14) and (15).

(e) The full amount of the premium shall be remitted to the insurance carrier or carriers substantially in accordance with s. 20.939.

(8) CANCELLATION AND TERMINATION OF INSURANCE. (a) An insured employe may at any time cancel his insurance by filing with his employing office a waiver of such coverage, which shall be transmitted forthwith to the director. Such waiver shall be effective and such employe's insurance shall cease at the end of the pay period which begins after the waiver is received in the employing office.

(b) The insurance of an insured employe shall cease on the date he ceases to be an employe as defined herein, subject to extension of his life insurance coverage for a period of 31 days thereafter.

(c) During the 31 days extension of life insurance coverage under par. (b), an individual may, upon application and without medical examination, convert all or any part of his group life insurance to an individual policy of life insurance at rates applicable to his attained age and class of risk.

(d) The group life insurance board may provide for the continuance or suspension of insurance coverage during any month in which no earnings are received and during any leave of absence or period of disability as defined by the board.

(9) RETIRED EMPLOYES. To be eligible for continuance of life insurance as a retired employe, an insured employe must (a) be entitled to a disability annuity or (b) have then been a state employe for at least 25 years or have attained age 65 and be entitled to an immediate annuity and must meet all requirements for annuity including filing of application where necessary, whether or not final administrative action has been taken.

(10) ADMINISTRATION. The group life insurance provided under this section shall be administered by the director in conformity with the rules prescribed by the group life insurance board.

History: 1957 c. 512, 687.

66.92 Housing for veterans; authority to promote; state co-operation. (1) Any county, city, village or town or agency thereof may appropriate money, grant the use of land, buildings or property owned or leased by it, or take such other action as may be deemed advisable or necessary to promote and provide housing for veterans and servicemen.

(2) In the event that an agency created or designated by a county or municipality to administer anything authorized under this section is unable to secure satisfactory and acceptable bid or bids the agency may nevertheless negotiate necessary contracts authorized by the sponsoring county or municipality subject to the approval of the county or municipality.

(3) The state department of veterans' affairs is authorized and directed to furnish any county, city, village, town or agency thereof with information and assistance to facilitate housing for veterans and servicemen and said department shall call upon the state planning division for assistance in carrying out the purpose of this subsection. The state planning division shall furnish such assistance when requested and the salaries and expenses therefor shall be paid out of the appropriation for the state department of veterans' affairs.

History: 1953 c. 61.

66.93 Sites for veterans' memorial halls. Any city, town or village may donate to any organization specified in section 70.11 (9) land upon which is to be erected a memorial hall to contain the memorial tablet specified in said section.

66.94 Metropolitan transit authority. (1) DEFINITIONS. The following terms when used in this section, unless a different meaning clearly appears from the context, shall have the following meanings:

(a) "Authority" means any metropolitan transit authority established pursuant to this section.

(b) "Board" means the metropolitan transit board.

(c) "Transportation system" means all land, shops, structures, equipment, property, franchises and rights of whatever nature required for transportation of passengers for hire, freight and express, except all transportation facilities extending beyond the boundaries of the metropolitan district, and except all express and freight operations not operated in combination with transportation of passengers, including, however, without limitation, street railways, elevated railroads, subways, underground railroads, motor vehicles, trackless trolley busses, motor busses, and any combination thereof, or any other form of mass transportation operation.

(d) "Metropolitan district" or "district" embraces all the territory in any county having a population of 500,000 or more and in those cities, villages and towns located in counties immediately adjacent thereto having a population of less than 500,000, through or into which a transportation system extends from such county.

(e) "Bonds" shall mean any bonds, interim certificates, certificates of indebtedness, equipment obligations, notes, debentures or other obligations of the authority, issued pursuant to this section.

(f) "Trust indenture" shall include instruments pledging the revenues of real or personal properties.

(g) "Contract" shall mean any agreement of the authority whether contained in a resolution, trust indenture, lease, bond or other instrument.

(h) "Real property" shall include lands, lands under water, structures, and any and all easements, franchises and incorporeal hereditaments, and every estate and right therein, legal and equitable, including terms for years and liens by way of judgments, mortgages or otherwise.

(i) "Obligee of the authority" or "obligee" shall include any bondholder, trustee or trustees for any bondholders, any lessor, demising property to the authority used in connection with the function of the transit board, or any assignee or assignees of such lessor's interest, or any part thereof, and the United States of America when it is a party to any contract with the authority.

(j) "Municipalities" means cities, villages and towns.

(2) CREATION OF THE AUTHORITY. There is hereby created in each county having a population of 500,000 or more a political subdivision, body politic and corporate of the

state, under the name of "Metropolitan Transit Authority" which shall exercise the powers conferred by this section within the metropolitan district of which such county is a part.

(3) ORIGINAL EXERCISE OF POWERS. The authority shall not exercise any of the powers hereby granted until both of the following have occurred:

(a) This section is adopted by the electors of one or more cities, villages and towns having a population in the aggregate of more than 100,000 within the metropolitan district; and

(b) The legislative body of the municipality in such district then having more than 50 per cent of public transportation routes, computed upon a mileage basis, enacts an ordinance that accepts the authority for such municipality and designates the date when such authority shall commence to exercise its powers granted under this section. Repeal of that ordinance, subsequent to the exercise by the authority of such powers, shall not affect the continuation of the authority's operations or the exercise of its powers.

(4) MANNER OF ADOPTION. This section may be adopted by any city, village or town within the metropolitan district in the following manner: The governing body of any municipality, by ordinance passed at least 30 days prior to submission of the question, may direct that the question of the adoption of this section be submitted to the electors therein at any general, special, judicial or local election. The clerk of such municipality or the election commission of any city of the first class shall thereupon submit the question to popular vote. Public notice of the election shall be given in the same manner as in case of a regular municipal election except that such notice shall be published or posted at least 20 days prior to the election. If a majority of those voting on the question vote in the affirmative thereon, this section shall be adopted in such municipality. The proposition on the ballot to be used at such election shall be in substantially the following form:

Shall section 66.94 of the Wisconsin statutes which creates a metropolitan transit authority for ownership and operation of a public mass transportation system in the metropolitan district be adopted?

YES ☐ NO ☐

(5) LEGAL STATUS. (a) *Actions, seal, office.* The authority may sue and be sued in its corporate name. It may adopt a corporate seal and change the same at pleasure. The principal office of the authority shall be located within the metropolitan district.

(b) *Exempt from taxation.* The authority, its property (real or personal), franchises and income and the bonds, certificates and other obligations issued by it, and the interest thereon, shall be exempt from all ad valorem and income taxes by the state, any county, municipality, public corporation or other political subdivision or agency of the state.

(c) *Tax equivalent.* In lieu of the property taxes levied under chapter 76, and in lieu of the income taxes levied under chapter 71 which, but for the provisions of paragraph (b), would be due and payable as the state's share of such property and income taxes, there shall be paid to the state treasurer, as a tax equivalent but not in excess of the state's current share of said property and income taxes, the net revenues of the next preceding year, after the payment of (1) all operating costs, including all charges which may be incurred pursuant to subsections (29) and (34) and all other costs and charges incidental to the operation of the transportation system; (2) interest on and principal of all bonds payable from said revenues and to meet all other charges upon such revenues as provided by any trust agreement executed by the authority in connection with the issuance of bonds or certificates; (3) all costs and charges incurred pursuant to subsections (32) and (33) and any other costs and charges for acquisition, installation, construction or replacement or reconstruction of equipment, structures or rights-of-way not financed through the issuance of bonds or certificates under subsection (15); and (4) any compensation required to be paid to any municipality for the use of streets, viaducts, bridges, subways and other public ways. Deficiencies in any annual tax equivalent shall not be cumulative.

(6) MEMBERS OF THE BOARD. The governing and administrative body of the authority shall be a board consisting of 7 members to be known as the metropolitan transit board. Members of the board must live within the metropolitan district. They shall be men of recognized business ability. No member of the board or employe of the authority shall hold any other office or employment under the federal, state or any county or any municipal government except as honorary office without compensation or an office in the military service. No member of the board shall hold any other office in or be employed by the authority. No member of the board or employe of the authority shall have any private financial interest or profit directly or indirectly in any contract, work or business of the authority nor in the sale of or lease of any property to or from the authority. No mem-

ber of the board shall be paid any salary, fee or compensation for his services except that he shall be reimbursed for actual expenses incurred by him in the performance of his duties.

(7) SELECTION AND REPLACEMENT. (a) *Appointment and terms of office.* The members of the board shall hold office for terms of 7 years, except for the initial terms herein provided. Three members shall be appointed by the mayor and confirmed by the common council of the city having the largest population within the district. These appointments shall be for initial terms of 1, 3 and 7 years, respectively. Three members shall be appointed by the governor for initial terms of 2, 4 and 6 years, respectively. The 6 members so appointed will nominate the seventh member by majority vote for an initial term of 5 years, and his appointment shall be approved and made by the governor. If no seventh member is nominated either by the original board within 60 days of its appointment, or by any subsequent board within 60 days after a vacancy occurs in the office of the seventh member, then the governor shall appoint the seventh member. At the expiration of initial terms, successors shall be appointed in the same manner for terms of 7 years. Five members shall constitute a quorum.

(b) *Successors, vacancies.* Successors to members shall be appointed in the same manner as their predecessors. In the event of a vacancy, a successor shall be appointed in like manner. In addition to death, resignation, legal incompetency or conviction of a felony, a member shall vacate his office by removing his permanent residence from the district.

(8) RESIGNATIONS AND REMOVALS. Any member may resign from his office to take effect when his successor has been appointed and is qualified. The appointing authority may remove any member of the board appointed by him in case of incompetency, neglect of duty or malfeasance in office. They may give him a copy of such charges and an opportunity to be heard publicly thereon in person or by counsel upon not less than 10 days' notice. Upon failure of a member to qualify within the time required or abandonment of his office or his removal from office, his office shall become vacant.

(9) GENERAL POWERS. The authority shall have power to acquire, construct or operate and manitain for public service a transportation system or systems or any part thereof in the district and the power to dispose of the same and to enter into agreement for the operation of such system or parts thereof with others and all other powers necessary or convenient to accomplish the purposes of this section.

(10) POWER TO ACQUIRE EXISTING TRANSPORTATION FACILITIES. The authority may acquire by purchase, condemnation, lease, gift or otherwise, all or any part of the plant, equipment, rights and property, reserve funds, employes, pension or retirement funds, special funds, franchises, licenses, patents, permits, and papers, documents and records belonging to any person or public body operating a transportation system within the district, and to lease any municipality or privately owned facilities for operation and maintenance by the authority.

(11) POWER TO ACQUIRE AND DISPOSE OF PROPERTIES. The authority shall have power to acquire by purchase, condemnation, lease, gift or otherwise any other property and rights useful for its purposes, and to sell, lease, transfer or convey any property or rights when no longer useful, or to exchange the same for other property or rights which are useful for its purposes.

(12) JOINT USE OF PROPERTY. The authority shall have power to enter into agreements for the joint use by the authority and any railroad, person or public body owning or operating any transportation facilities either within or without the district of any property or rights of the authority or such railroad, person or public body operating any transportation facilities for any suitable purpose and for the establishment of through routes, joint fares and transfer of passengers.

(13) RIGHT OF EMINENT DOMAIN. (a) *As to what property.* The authority shall have the right of eminent domain to acquire any existing transportation facilities within the district and any private property or property devoted to any public use which is necessary for the purposes of the authority except such property which is used for the purpose of operating transportation facilities extending beyond the boundaries of the district. The authority shall have the right where necessary to acquire by eminent domain the right to use jointly all such property which is used for the purpose of operating transportation facilities extending beyond the boundaries of the district. The right of eminent domain shall be exercised in accordance with the procedure set out in chapter 32 or in accordance with any other applicable laws.

(14) POWER TO OPERATE LOCAL TRANSPORTATION FACILITIES. (a) *Use of public ways.* The authority shall have the right, but not exclusive of the public right, to use any public road, street or other public way in the district for interurban transportation of passen-

gers, but shall not have the right to use any street or other public way in any municipality for local transportation of passengers within such municipality unless this section shall have been adopted by such municipality, and the governing body of such municipality shall have given its consent thereto by ordinance. The right to use any road, street or other public way, or to operate over any bridge, viaduct or elevated structures above and subways beneath the surface of any road, street or public ground, including approaches, entrances, sidings, stations and connections for the purpose of local transportation in any municipality adopting this section, shall be upon such terms as are determined by the municipality in which such rights of way or facilities are located, and shall be subject to such reasonable rules and regulations and the payment of such license fees as the grantor may by ordinance from time to time prescribe.

(b) *Right to existing service.* Nothing contained herein shall deprive any town, city or village of the transportation facility existing at the time of the effective date of this paragraph or the right to seek extensions thereof as contemplated by statutes.

(15) POWER TO BORROW MONEY. (a) *Purpose.* The authority shall have the continuing power to borrow money for the purpose of acquiring any transportation system or part thereof (including any cash funds of such system reserved to replace worn out or obsolete equipment and facilities), for acquiring necessary cash working funds or establishing reserve funds, for acquiring, constructing, reconstructing, extending or improving its transportation system or any part thereof and for acquiring any property and equipment useful for the construction, reconstruction, extension, improvement or operation of its transportation system or any part thereof. For the purpose of evidencing the obligation of the authority to repay any money borrowed the authority may, pursuant to ordinance adopted by the board, from time to time issue and dispose of interest-bearing revenue bonds or certificates and may also from time to time issue and dispose of such bonds or certificates to refund any bonds or certificates previously issued in accordance with the terms expressed therein.

(b) *Source of payment.* All such bonds shall be payable solely from the revenues or income to be derived from the operation of such transportation system.

(c) *Terms.* They may bear such date or dates, may mature at such time or times not exceeding 40 years from the date of issue, may bear interest at such rate not exceeding 5 per cent per annum payable semiannually, may be in such form, may carry such registration privileges, may be executed in such manner, may be payable at such place, may be made subject to redemption in such manner and upon such terms with or without premium as is stated on the face thereof, may be authenticated in such manner and may contain such terms and covenants as may be provided in such ordinance.

(d) *Negotiability.* Notwithstanding the form thereof, in the absence of an express recital to the contrary on the face thereof, all such bonds shall be negotiable instruments.

(e) *Temporary financing.* Pending the preparation and execution of any such bonds temporary bonds may be issued with or without interest coupons as may be provided by ordinance.

(f) *Trust agreement; lien.* To secure the payment of any such bonds and for the purpose of setting forth the covenants and undertakings of the authority in connection with the issuance thereof and of any additional bonds payable from such revenue or income, as well as the use and application of the revenue or income to be derived from the transportation system, the authority may execute and deliver trust agreements but no lien upon any physical property of the authority shall be created thereby.

(g) *Remedy for breach.* A remedy for any breach of the terms of any such trust agreement by the authority may be by mandamus proceedings in any court of competent jurisdiction to compel performance and compliance therewith, but the trust agreement may prescribe by whom or on whose behalf such action may be instituted.

(h) *Public credit not pledged.* Under no circumstances shall any bonds of the authority become an indebtedness or obligation of the state or of any county, city, town, village, school district or other municipal corporation, nor shall any such bond become an indebtedness of the authority within the purview of any constitutional limitation or provision, and it shall be plainly stated on the face of each bond and certificate that it does not constitute such an indebtedness or obligation but is payable solely from the revenues or income as aforesaid. For the purpose of debt limitation, the authority shall be considered a public utility.

(i) *Sale of securities.* Before any such bonds (excepting refunding bonds) are sold, the entire authorized issue, or any part thereof, shall be offered for sale as a unit after advertising for bids at least 3 times in a daily newspaper of general circulation published in the district, the last publication to be at least 10 days before bids are re-

quired to be filed. Copies of such advertisement may be published in any newspaper or financial publication in the United States. All bids shall be sealed, filed and opened as provided by ordinance and the bonds shall be awarded to the highest and best bidder or bidders therefor. The authority shall have the right to reject all bids and readvertise for bids in the manner provided for in the initial advertisement. If no bids are received, such bonds may be sold at not less than par value, without further advertising, within 60 days after the bids are required to be filed pursuant to any advertisement.

(16) FINANCING OF EQUIPMENT. (a) *Purchase of equipment.* The authority shall have power to purchase equipment such as cars, trackless trolleys and motor busses, and may execute agreements, leases and equipment trust certificates in the form customarily used in such cases appropriate to effect such purchase and may dispose of such equipment trust certificates. All money required to be paid by the authority under the provisions of such agreements, leases and certificates shall be payable solely from the revenue or income to be derived from the transportation system and from grants and loans as provided in subsection (18). Payment for such equipment, or rentals therefor, may be made in instalments, and the deferred instalments may be evidenced by equipment trust certificates payable solely from such revenue or income, and it may be provided that title to such equipment shall not vest in the authority until the equipment trust certificates are paid.

(b) *Security.* The agreement to purchase may direct the vendor to sell and assign the equipment to a bank or trust company, duly authorized to transact business in the state, as trustee for the benefit and security of such certificates and may direct the trustee to deliver the equipment to one or more designated officers of the authority and authorize the trustee simultaneously therewith to execute and deliver a lease of the equipment to the authority.

(c) *Forms of agreements.* The agreements and leases shall be duly acknowledged in the form required for acknowledgment of deeds. Such agreements, leases and certificates shall be authorized by ordinance of the board and shall contain such covenants, conditions and provisions as may be deemed necessary or appropriate to insure the payment of the certificates from the revenue or income to be derived from the transportation system.

(d) *Related agreements to be consistent.* The covenants, conditions and provisions of the agreements, leases and certificates shall not conflict with any of the provisions of any trust agreement securing the payment of bonds or certificates of the authority.

(e) *Filing.* An executed copy of each such agreement and lease or duplicate original thereof shall be filed in the office of the register of deeds of each county in which the authority is doing business, and such filing shall constitute notice to any subsequent judgment creditor or any subsequent purchaser. Each vehicle so purchased and leased shall have the name of the owner and lessor plainly marked on both sides thereof followed by the words "Owner and Lessor".

(17) RIGHT TO INVEST IN SECURITIES OF AUTHORITY. The state and all counties, cities, villages, incorporated towns and other municipal corporations, political subdivisions and public bodies, and public officers of any thereof, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees and other fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds or certificates issued pursuant to this section, but nothing contained in this subsection shall be construed as relieving any person from any duty of exercising reasonable care in selecting securities for purchase or investment.

(18) POWER OF AUTHORITY TO ACCEPT PUBLIC GRANTS AND LOANS. The authority shall have power to apply for and accept grants and loans from the federal government, the state or any municipality, or any agency or instrumentality thereof, to be used for any of the purposes of the authority and to enter into any agreement in relation to such grants or loans when such agreement does not conflict with any of the provisions of any trust agreements securing the payment of bonds or certificates of the authority.

(19) POWER OF AUTHORITY TO INVEST AND REINVEST FUNDS. The authority shall have power to invest and reinvest any funds held in reserve or sinking funds not required for immediate disbursement in bonds or notes of the United States, bonds of the state, or of any county or municipality in which the authority is engaged in the operation of its business, and, at not to exceed their par value or their call price, in bonds or certificates of the authority, and to sell these securities whenever the funds are needed for disbursements. Such investment or reinvestment of any funds shall not be in conflict with

any provisions of any trust agreement securing the payment of bonds or certificates of the authority.

(20) INSURANCE AND INDEMNITY CONTRACTS. The authority shall have power to procure and enter into contracts for any type of insurance and indemnity against loss or damage to property from any cause, including loss of use and occupancy, against death or injury of any person, against employers' liability, against any act of any member, officer or employe of the board or of the authority in performance of the duties of his office or employment or any other insurable risk.

(21) POWER OF TAXATION DENIED TO AUTHORITY. The authority shall not have power to levy taxes for any purpose whatsoever.

(22) ORDINANCES, RULES AND REGULATIONS. The board shall have power to pass all ordinances and make all rules and regulations proper or necessary to regulate the use, operation and maintenance of its property and facilities, and to carry into effect the powers granted to the authority.

(23) ORGANIZATION OF BOARD. As soon as possible after the appointment of the initial members, the board shall organize for the transaction of business, select a chairman and a temporary secretary from its own number, and adopt by-laws, rules and regulations to govern its proceedings. The initial chairman and each of his successors shall be elected by the board from time to time for the term of his office as a member of the board or for the term of 3 years, whichever is shorter and shall be eligible for re-election.

(24) CONDUCT OF BOARD MEETINGS. Regular meetings of the board shall be held at least once in each calendar month, at a time and place fixed by the board. Five members of the board shall constitute a quorum for the transaction of business, but a lesser number may adjourn a meeting to a definite date or sine die at its option. All action of the board shall be by ordinance or resolution and the affirmative vote of at least 4 members shall be necessary for the adoption of any ordinance or resolution. All such ordinances and resolutions before taking effect shall be approved by the chairman of the board by signing the same, and such as he shall not approve he shall return to the board with his objections thereto in writing at the next regular meeting of the board. But in case the chairman shall fail so to return any ordinance or resolution, he shall be deemed to have approved the same and it shall take effect accordingly. Upon the return of any ordinance or resolution by the chairman with his objections, it shall be reconsidered by the board, and if upon such reconsideration it is again passed by the affirmative vote of at least 5 members, it shall go into effect notwithstanding the veto of the chairman. All ordinances, resolutions and all proceedings of the authority and all documents and records in its possession shall be public records, and open to public inspection, except such documents and records as shall be kept or prepared by the board for use in negotiations, action or proceedings to which the authority is a party.

(25) SECRETARY AND TREASURER. The board shall appoint a secretary and a treasurer, who need not be members of the board, to hold office during the pleasure of the board, and fix their duties and compensation. The secretary shall not be engaged in any other business or employment during his tenure of office. Before entering upon the duties of their respective offices they shall take and subscribe an official oath, and the treasurer shall execute an official bond with corporate sureties to be approved by the board. The bond shall be payable to the authority in whatever penal sum may be directed by the board conditioned upon the faithful performance of the duties of the office and the payment of all money received by him according to law and the orders of the board. The board may, at any time, require a new bond from the treasurer in such penal sum as it may determine. The obligation of the sureties shall not extend to any loss sustained by the insolvency, failure or closing of any national or state bank wherein the treasurer has deposited funds if the bank has been approved by the board as a depository. The oaths of office and bond shall be filed in the principal office of the authority.

(26) MANNER OF HANDLING FUNDS. All funds shall be deposited in the name of the authority and shall be withdrawn only by check or draft signed in the manner as provided by the board. The board may designate any of its members or any employe to affix the signature of the chairman and another to affix the signature of the treasurer to any check or draft for payment of salaries or wages and for the payment of any other obligation of not more than $1,000. In case any officer whose signature appears upon any check, draft, bond, certificate or interest coupon, issued pursuant to this section, ceases to hold his office, his signature nevertheless shall be valid and sufficient for all purposes with the same effect as if he had remained in office.

(27) APPOINTMENT OF A GENERAL MANAGER. The board shall appoint a general manager who shall be a man of recognized ability and experience in the operation of trans-

portation systems to hold office during the pleasure of the board. The general manager shall have management of the properties and business of the authority and the employes thereof, subject to the general control of the board. He shall direct the enforcement of all ordinances, resolutions, rules and regulations of the board, and shall perform such other duties as may be prescribed from time to time by the board. The board may appoint a general attorney and a chief engineer, and shall provide for the appointment of such other officers, attorneys, engineers, consultants, agents and employes as may be necessary for the construction, extension, operation, maintenance and policing of its properties. It shall define their duties and may require bonds of them. The general manager, general attorney, chief engineer and all other officers provided for under this subsection shall be exempt from subscribing any oath of office. The compensation of all officers, attorneys, consultants, agents and employes shall be fixed by the board.

(28) SUPERVISION OF OFFICERS AND EMPLOYES. The board shall classify all the officers, positions and grades of regular employment required, excepting that of the general manager, secretary, treasurer, general attorney, and chief engineer, with reference to the duties thereof and the compensation fixed therefor, and adopt rules governing appointments to any of such offices or positions on the basis of merit and efficiency. No discrimination shall be made in any appointment or promotion because of race, creed, color, or political or religious affiliation. No officer or employe shall be discharged or demoted except for cause which is detrimental to the service. Any officer or employe who is discharged or demoted may file a complaint in writing with the board within 10 days after notice of his discharge or demotion. If any employe is a member of a labor organization, the complaint may be filed by such organization for and in behalf of such employe. The board shall grant a hearing on such complaint within 30 days thereafter. The time and place of the hearing shall be fixed by the board and due notice thereof given to the complainant, the labor organization by or through which the complaint was filed and the general manager. The hearing shall be conducted by the board, or any member thereof or any officers' committee or employes' committee appointed by the board. The complainant may be represented by counsel. If the board finds, or approves a finding of the member or committee appointed, that the complainant has been unjustly discharged or demoted, he shall be restored to his office or position with back pay. The decision of the board shall be final and not subject to review. The board may abolish any office or reduce the force of employes for lack of work or lack of funds, but in so doing the officer or employe with the shortest service record in the class and grade to which he belongs shall be first released from service and shall be reinstated in order of seniority when additional force of employes is required.

(29) EMPLOYES. (a) *Collective bargaining.* The authority shall have the same rights, duties and obligations with respect to collective bargaining by and with its employes as do public utility corporations.

(b) *Employes of existing systems.* If the authority acquires any existing transportation system or part thereof, all of the employes in the operating and maintenance divisions of such system or part thereof and all other employes, except executive officers, shall be transferred to and appointed as employes of the authority, subject to all rights and benefits of this section, and such employes shall be given seniority credit in accordance with the records of their previous employer.

(c) *Retirement systems.* Members and beneficiaries of any pension or retirement system or other benefits established by such previous employer shall continue to have the rights, privileges, benefits, obligations and status with respect to such established system. There shall be established and maintained by the authority a sound pension and retirement system adequate to provide for all payments when due under such established system or as modified from time to time by ordinance of the board. For this purpose, both the board and the participating employes shall make such periodic payments to the established system as may be determined by such ordinance. The board, in lieu of social security payments, shall make payments into such established system at least equal in amount to the amount so required to be paid by private corporations. Provision shall be made by the board for all officers and employes of the authority appointed pursuant to this section to become, subject to reasonable rules and regulations, members or beneficiaries of the pension or retirement system with uniform rights, privileges, obligations and status as to the class in which such officers and employes belong.

(30) ESTABLISHMENT OF FARES AND STANDARDS OF SERVICE. (a) *Powers of board.* The board shall, notwithstanding any law to the contrary, have exclusive authority and it shall be its duty to establish rates, fares and other charges, and to make all rules and regulations for the operation of the transportation system. The board shall also have the authority, subject to the jurisdiction of the public service commission as to the reasonableness and adequacy thereof, to determine and make effective standards of service, and

to establish, change, extend, shorten or abandon routings all in accordance with the statutes in such cases made and provided subject to the provisions of any ordinance of any municipality granting rights to the authority.

(b) *Fares.* Rates, fares and other charges for transportation shall be so fixed that revenues shall at all times be sufficient in the aggregate for:

1. Payment of all operating costs, including all charges which may be incurred pursuant to subsections (29) and (34) and all other costs and charges incidental to the operation of the transportation system;

2. Payment of interest and principal of all bonds payable from said revenues and to meet all other charges upon such revenues as provided by any trust agreement executed by the authority;

3. Payment of all costs and charges incurred pursuant to subsections (32) and (33) and any other costs and charges for acquisition, installation, construction or replacement or reconstruction of equipment, structures or rights of way not financed through the issuance of bonds or certificates under subsection (15); and

4. Any compensation required to be paid to any municipality for the use of streets, viaducts, bridges, subways and other public ways.

(31) CHARGES FOR GOVERNMENT TRANSPORTATION. The board may provide free transportation within any municipality in which they are employed for firemen when in uniform, and policemen when in uniform and when not in uniform and certified for special duty and for its employes when in uniform or upon presentation of identification, and may enter into agreements with the United States post office department for the transportation of mail and the payment of compensation in lieu of fares for the transportation of letter carriers when in uniform.

(32) MODERNIZATION FUND. It shall be the duty of the board, as promptly as possible, to rehabilitate, reconstruct and modernize all portions of any transportation system acquired by the authority and to maintain at all times an adequate and modern transportation system suitable and adapted to the needs of the municipalities served, and for safe, comfortable and convenient service. To that end the board shall establish a modernization fund which shall include, but is not limited to cash in renewal, equipment or depreciation funds which are part of transportation systems or part thereof acquired by the authority and any excess cash derived from the sale of revenue bonds or certificates. The moneys in the modernization fund shall be disbursed for the purpose of acquiring or constructing extensions and improvements and betterment of the system, to make replacements of property damaged or destroyed or in necessary cases where depreciation fund is insufficient, to purchase and cancel its revenue bonds and certificates prior to their maturity at a price not exceeding par, and to redeem and cancel its revenue bonds and certificates according to their terms. The board may make temporary loans from the modernization fund for use as initial working capital.

(33) DEPRECIATION POLICY. To assure modern, attractive transportation service the board may establish a depreciation policy which makes provision for the continuous and prompt replacement of worn out and obsolete property and the board may make provision for such depreciation of the property of the authority as is not offset by current expenditures for maintenance, repairs and replacements. The board from time to time shall make a determination of the relationship between the service condition of the properties of the authority and the then established depreciation rates and reserves and may make adjustments or modifications of such rates in such amounts as it may deem appropriate because of experience and estimated consumption of service life of road, plant and equipment.

(34) DAMAGE RESERVE FUND. (a) *Establishment of fund.* The board shall withdraw from the gross receipts of the authority and charge to operating expenses such an amount of money as in the opinion of the board shall be sufficient to provide for the adjustment, defense and satisfaction of all suits, claims, demands, rights and causes of action and the payment and satisfaction of all judgments entered against the authority for damage caused by injury to or death of any person and for damage to property resulting from the construction, maintenance and operation of the transportation system. The board shall deposit such moneys in a fund to be known and designated as the damage reserve fund.

(b) *Use of fund.* The board shall use the moneys in the damage reserve fund to pay all expenses and costs arising from the adjustment, defense and satisfaction of all suits, claims, demands, rights and causes of action and the payment and satisfaction of all judgments entered against the authority for damages caused by injury to or death of any person and for damage to property resulting from the construction, maintenance and operation of the transportation system.

(c) *Liability insurance.* The cost of obtaining and maintaining insurance against such contingencies shall be paid out of the moneys in the damage reserve fund. All moneys received from such insurance coverage or protection shall be paid into the damage reserve fund.

(d) *Workmen's compensation.* The authority and its employes shall be subject to chapter 102.

(35) CLAIMS AGAINST AUTHORITY FOR PERSONAL INJURIES, DEATHS OR PROPERTY DAMAGES. Civil actions to enforce claims against the authority for personal injuries, wrongful deaths or property damages may be commenced and prosecuted upon the same terms and conditions and in the same manner as such actions are commenced and prosecuted against street railway companies which are in private ownership.

(36) SPECIAL FUNDS. The authority may establish and create such other and additional special funds as may be found desirable by the board and in and by such ordinances may provide for payments into all special funds from specified sources with such preferences and priorities as may be deemed advisable and may also by any such ordinances provide for the custody, disbursement and application of any moneys in any such special funds consistent with the provisions of this section.

(37) PUBLIC BIDDING ON CONTRACTS. (a) *Exceptions.* All contracts for the sale of property of the value of more than $2,500 or for any concession in or lease of property of the authority for a term of more than one year shall be awarded to the highest responsible bidder, after advertising for bids. All construction contracts and contracts for supplies, materials, equipment and services, when the expense thereof will exceed $2,500, shall be let to the lowest responsible bidder, after advertising for bids, excepting (1) when by vote of at least 5 members of the board, it is determined that an emergency requires immediate delivery of supplies, materials or equipment or performance of services; (2) when repair parts, accessories, equipment or services are required for equipment or services previously furnished or contracted for; (3) when the nature of the services required is such that competitive bidding is not in the best interest of the public, including, without limiting the generality of the foregoing, the services of accountants, architects, attorneys, engineers, physicians, superintendents of construction, and others possessing a high degree of skill; (4) when services such as water, light, heat, power, telephone or telegraph are required. All contracts involving less than $2,500 shall be let by competitive bidding whenever possible, and in any event in a manner calculated to insure the best interests of the public.

(b) *Rejection of bids.* In determining the responsibility of any bidder, the board may take into account past dealings with the bidder, experience, adequacy of equipment, ability to complete performance within the time set, and other factors beside financial responsibility, but in no case shall any such contract be awarded to any other than the highest bidder (in case of sale, concession or lease) or the lowest bidder (in case of purchase or expenditure) unless authorized or approved by a vote of at least 5 members of the board, and unless such action is accompanied by a statement in writing setting forth the reasons, which statement shall be kept on file in the principal office of the authority and open to public inspection.

(c) *Evasion, collusion.* Contracts shall not be split into parts involving expenditure of less than $2,500 for the purpose of avoiding the provisions of this section, and all such split contracts shall be void. If any collusion occurs among bidders or prospective bidders in restraint of freedom of competition, by agreement to bid a fixed amount or to refrain from bidding or otherwise, the bids of such bidders shall be void. Each bidder shall accompany his bid with a sworn statement that he has not been a party to any such agreement.

(d) *Employes not to bid.* Members of the board, officers and employes of the authority, and their relatives within the fourth degree by the terms of the civil law, are forbidden to be interested directly or indirectly in any contract for construction or maintenance work or for the delivery of materials, supplies or equipment.

(e) *Readvertising.* The board shall have the right to reject all bids and to readvertise for bids. If after such readvertisement no responsible and satisfactory bid within the terms of the advertisement shall be received, the board may award such contract without competitive bidding, if it shall not be less advantageous to the authority than any valid bid received pursuant to advertisement.

(f) *Rules of the board.* The board shall adopt rules and regulations to carry into effect the provisions of this subsection.

(38) ADVERTISEMENT FOR BIDS. Advertisements for bids shall be published at least twice in a daily newspaper of general circulation published in the metropolitan district, the last publication to be at least 10 calendar days before the time for receiving bids, and

such advertisements shall also be posted on readily accessible bulletin boards in the principal office of the authority. Such advertisement shall state the time and place for receiving and opening of bids, and by reference to plans and specifications on file at the time of the first publication, or in the advertisement itself, shall describe the character of the proposed contract in sufficient detail to fully advise prospective bidders of their obligations and to insure free and open competitive bidding. All bids in response to advertisements shall be sealed and shall be publicly opened by the board, and all bidders shall be entitled to be present in person or by representatives. Cash or a certified or satisfactory cashier's check, as a deposit of good faith, or a bid bond with satisfactory surety or sureties in a reasonable amount to be fixed by the board before advertising for bids, shall be required with the proposal of each bidder. Bond for faithful performance of the contract with surety satisfactory to the board and adequate insurance may be required by the board. The contract shall be awarded as promptly as possible after the opening of bids. All bids shall be placed on file open to public inspection. All bids shall be void if any disclosure of the terms of any bid in response to an advertisement is made or permitted to be made by the board before the time fixed for opening bids.

(39) ESTABLISHMENT OF FISCAL YEAR. The board shall establish a fiscal operating year. At least 30 days prior to the beginning of the first full fiscal year after creation of the authority, and annually thereafter, the board shall cause to be prepared a tentative budget which shall include all operation and maintenance expense for the ensuing fiscal year. The tentative budget shall be considered by the board at a public meeting, held upon notice published in a newspaper of general circulation published in the district not less than 10 days prior to such meeting, and, subject to any revision and amendments as may be determined, shall be adopted prior to the first day of the ensuing fiscal year as the budget for that year. No expenditures for operations and maintenance in excess of the budget shall be made during any fiscal year except by the affirmative vote of at least 5 members of the board. It shall not be necessary to include in the annual budget any statement of necessary expenditures for pensions or retirement annuities, for interest or principal payments on bonds, or for capital outlays, but it shall be the duty of the board to make provision for payment of same from appropriate funds.

(40) ANNUAL REPORT. As soon after the end of each fiscal year as may be expedient, the board shall print a detailed report and financial statement of its operations and of its assets and liabilities. A reasonably sufficient number of copies of such report shall be printed for distribution to persons interested, upon request, and a copy thereof shall be filed with the governor, the county clerks of the counties in which the authority is engaged in the operation of its business and the clerk of each municipality which has adopted this section or granted rights to the authority by ordinance. A separate copy of such report shall be mailed to the principal officer and the governing body of each such municipality.

(42) CONFLICT OF LAWS. In so far as any provision of this section is inconsistent with the provisions of any other law, the provisions of this section shall be controlling, except as provided in subsection (44).

(43) APPLICATION OF SECTION. This section shall be construed as constituting complete statutory authority for the creation of metropolitan transit authorities and the acquisition, ownership and operation of a transportation system by such authority and for the issuance of bonds as herein authorized, any other law relating to the matters herein contained to the contrary notwithstanding.

(44) PUBLIC UTILITY LABOR DISPUTES. Notwithstanding any provision of this section the authority shall be deemed an employer under chapter 111, subchapter III, and the authority shall be subject to the same laws as other similar organizations engaged in like activities, and any provision of this section in conflict with the provisions of this subsection is to the extent of such conflict superseded by the provisions of this subsection.

History: 1951 c. 261 s. 10; 1951 c. 568; 1953 c. 197; 1955 c. 661.

66.945 Creation, organization, powers and duties of regional planning commissions. (1) DEFINITIONS. For the purpose of this section "local governmental units" or "local units" shall include cities, villages, towns and counties.

(2) CREATION OF REGIONAL PLANNING COMMISSIONS. A regional planning commission may be created by the governor, or such state agency as he may designate, upon petition in the form of a resolution by the legislative body of a local governmental unit. Such a petition shall evidence the existence of an unmistakable interest in a regional planning commission and demonstrate the need for such a commission. The governor, or his designee, after receipt of such a petition, and upon finding that there is a need for a regional planning commission, shall create the regional planning commission by order and shall designate the area and boundaries of such a commission's jurisdiction taking

into account the elements of homogeneity based upon, but not limited to, such considerations as topographic and geographic conformations, extent of urban development, the existence of special or acute agricultural, forestry, conservation or other rural problems, uniformity of social or economic interests and values, park and recreational needs, civil defense, or the existence of problems of physical, social and economic problems of a regional character. The governing body of any local governmental unit may elect that such unit shall not be included within the jurisdiction of any regional planning commission, by resolution adopted by such governing body and filed with the governor or his designee.

(3) COMPOSITION OF REGIONAL PLANNING COMMISSIONS. The regional planning commission shall consist of one representative from each local unit within the region, chosen by such local unit according to procedures it may adopt. Where less than 4 local units have jurisdiction over a region, the commission shall be made up of 2 representatives from each local unit.

(4) COMPENSATION; EXPENSES. No compensation shall be paid members of regional planning commissions: provided, that this shall not affect in any way remuneration received by any state or local official who, in addition to his responsibilities and duties as a state or local official, serves also as a member of the regional planning commission. All members may be reimbursed for actual expenses incurred as members of the commission in carrying out the work of the commission.

(5) CHAIRMAN; RULES OF PROCEDURE; RECORDS. Each regional planning commission shall elect its own chairman and executive committee and shall establish its own rules of procedure, and may create and fill such other offices as it may determine necessary. The commission shall meet at least once each year. It shall keep a record of its resolutions, transactions, findings and determinations, which shall be a public record.

(6) DIRECTOR AND EMPLOYES. The regional planning commission shall appoint a director and such employes as it deems necessary for its work and may hire such experts and consultants for part-time or full-time service as may be necessary for the prosecution of its responsibilities.

(7) ADVISORY COMMITTEES OR COUNCILS; APPOINTMENT. The regional planning commission may appoint advisory committees or councils whose membership may consist of individuals whose experience, training or interest in the program may qualify them to lend valuable assistance to the regional planning commission by acting in an advisory capacity in consulting with the regional planning commission on all phases of the commission's program. Members of such advisory bodies shall receive no compensation for their services but may be reimbursed for actual expenses incurred in the performance of their duties.

(8) FUNCTIONS, GENERAL AND SPECIAL. (a) The regional planning commission may conduct all types of research studies, collect and analyze data, prepare maps, charts and tables, and conduct all necessary studies for the accomplishment of its other duties; it may make plans for the physical, social and economic development of the region, and may adopt by resolution any plan or the portion of any plan so prepared as its official recommendation for the development of the region; it may publicize and advertise its purposes, objectives and findings, and may distribute reports thereon; it may provide advisory services on regional planning problems to the local government units within the region and to other public and private agencies in matters relative to its functions and objectives, and may act as a co-ordinating agency for programs and activities of such local units and agencies as they relate to its objectives. All public officials shall, upon request, furnish to the regional planning commission, within a reasonable time, such available information as it may require for its work. In general, the regional planning commission shall have such powers as may be necessary to enable it to perform its functions and promote regional planning.

(b) The regional planning commission shall make an annual report of its activities to the legislative bodies of the local governmental units within the region.

(9) PREPARATION OF MASTER PLAN FOR REGION. The regional planning commission shall have the function and duty of making and adopting a master plan for the physical development of the region. The master plan, with the accompanying maps, plats, charts, programs and descriptive and explanatory matter, shall show the commission's recommendations for such physical development and may include, among other things without limitation because of enumeration, the general location, character and extent of main traffic arteries, bridges and viaducts; public places and areas; parks; parkways; recreational areas; sites for public buildings and structures; airports; waterways; routes for public transit; and the general location and extent of main and interceptor sewers, water conduits and other public utilities whether privately or publicly owned; areas for industrial, commercial, residential, agricultural or recreational development. The regional

planning commission may amend, extend or add to the master plan or carry any part or subject matter into greater detail.

(10) ADOPTION OF MASTER PLAN FOR REGION. The master plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the region which will, in accordance with existing and future needs, best promote public health, safety, morals, order, convenience, prosperity or the general welfare, as well as efficiency and economy in the process of development. The regional planning commission may adopt the master plan as a whole by a single resolution, or, as the work of making the whole master plan progresses, may by resolution adopt a part or parts thereof, any such part to correspond generally with one or more of the functional subdivisions of the subject matter of the plan. The resolution shall refer expressly to the maps, plats, charts, programs and descriptive and explanatory matter, and other matters intended by the regional planning commission to form the whole or any part of the plan, and the action taken shall be recorded on the adopted plan or part thereof by the identifying signature of the chairman of the regional planning commission and a copy of the plan or part thereof shall be certified to the legislative bodies of the local governmental units within the region.

(11) MATTERS REFERRED TO REGIONAL PLANNING COMMISSIONS. The officer or public body of a local governmental unit within the region having final authority thereon shall refer to the regional planning commission, for its consideration and report before final action is taken by such officer or public body, the following matters: The location of, or acquisition of land for, any of the items or facilities which are included in the adopted regional master plan, and all subdivision plats of land within the region submitted to the local governmental unit for approval under statute or ordinance. Within 20 days after the matter is referred to the regional planning commission or such longer period as may be stipulated by the referring officer or public body, the commission shall report its recommendations to the referring officer or public body or final action may be taken without it.

(12) LOCAL ADOPTION OF PLANS OF REGIONAL COMMISSION. Any local governmental unit within the region may adopt all or any portion of the plans and other programs prepared and adopted by the regional planning commission.

(13) AID FROM GOVERNMENTAL AGENCIES; GIFTS AND GRANTS. Aid, in any form, for the purpose of accomplishing the objectives of the regional planning commission may be accepted from all governmental agencies whether local, state or federal, if the conditions under which such aid is furnished are not incompatible with the other provisions of this section. The regional planning commission may accept gifts and grants from public or private individuals or agencies if the conditions under which such grants are made are in accordance with the accomplishment of the objectives of the regional planning commission.

(14) BUDGET AND SERVICE CHARGES. (a) For the purpose of providing funds to meet the expenses of a regional planning commission, the commission shall annually prepare and approve a budget reflecting the costs of its operation and services to the local governmental units within the region. The amount of the budget charged to any local governmental unit shall be in the proportion of the equalized value of the land of such local governmental unit, within the region, to the total equalized value of all of the land within the region. The amount charged to a local governmental unit shall not exceed .003 per cent of the equalized value of the land under its jurisdiction and within the region, unless the governing body of such unit shall expressly approve the amount in excess of such percentage.

(b) Where one-half or more of the land within a county is within a region, the chairman of the regional planning commission shall certify to the county clerk, prior to August 1 of each year, the proportionate amount of the budget charged to the county for the services of the regional planning commission. Unless the county board finds such charges unreasonable, and institutes the procedures set forth below for such a contingency, it shall take such necessary legislative action as to provide the funds called for in the certified statement.

(c) Where less than one-half of the land within a county is within a region, the chairman of the regional planning commission shall before August 1 of each year certify to the clerk of the local governmental unit involved a statement of the proportionate charges assessed to that local governmental unit. Such clerk shall extend the amount shown in such statement as a charge on the tax roll under s. 144.07 (2).

(d) If any local governmental unit makes a finding by resolution within 20 days of the certification to its clerk that the charges of the regional planning commission are unreasonable, it may: 1. submit the issue to arbitration by 3 arbitrators, one to be chosen by the local governmental unit, one to be chosen by the regional planning commission and

the third to be chosen by the first 2 arbitrators. If the arbitrators are unable to agree, the vote of 2 shall be the decision. They may affirm or modify the report, and shall submit their decision in writing to the local governmental unit and the regional planning commission within 30 days of their appointment unless the time be extended by agreement of the commission and the local governmental unit. The decision shall be binding. Election to arbitrate shall be waiver of right to proceed by action. Two-thirds of the expenses of arbitration shall be paid by the party requesting arbitration and the balance by the other, or 2. if a local governmental unit does not elect to arbitrate, it may institute a proceeding for judicial review as provided in ch. 227, except that the place of appeal shall be the circuit court of a county within the region other than the county in which the local governmental unit seeking review is located.

(e) By agreement between the regional planning commission and a local governmental unit, special compensation to the commission for unique and special services provided to such local governmental unit may be arranged.

(f) The regional planning commission may accept from any local governmental unit supplies, the use of equipment, facilities and office space and the services of personnel as part or all of the financial support assessed against such local governmental unit.

History: 1955 c. 466.

66.95 Prohibiting operators from leaving keys in parked motor vehicles. The governing body of any city may by ordinance require every passenger motor vehicle to be equipped with a lock suitable to lock either the starting lever, throttle, steering apparatus, gear shift lever or ignition system; prohibit any person from permitting a motor vehicle in his custody from standing or remaining unattended on any street, alley or in any other public place, except an attended parking area, unless either the starting lever, throttle, steering apparatus, gear shift or ignition of said vehicle is locked and the key for such lock is removed from the vehicle; and provide forfeitures for such violations.

History: 1953 c. 529.

66.99 Inclusion of public employes under social security. (1) As used in this section:

(a) "Public agency" means the state and any county, city, village, town, school district or other unit of government, or agency or instrumentality of one or more thereof which is eligible for inclusion under the federal old age and survivors insurance system.

(ab) With respect to members of the state teachers retirement system "public agency" means the state, except that for the purposes of sub. (6), and the applicable portions of subs. (7), (8) and (8a) "public agency" means the employer school district or other local unit of government.

(am) With respect to members of a retirement fund created under s. 38.24 "public agency" means the state, except that for purposes of sub. (6) and the applicable portions of subs. (7), (8) and (8a) "public agency" means a city of the first class.

(b) "Federal regulations" means the provisions of section 218 of Title II of the social security act enacted by the congress of the United States as amended by the 83rd congress, and applicable regulations adopted pursuant thereto, and applicable provisions of the U. S. internal revenue code.

(c) "Coverage group" has the meaning given that term by federal regulations.

(d) "Director" means the executive director of the Wisconsin retirement fund.

(2) Each public agency other than the state may determine to be included under the federal old age and survivors insurance system through the adoption of a resolution by the governing body thereof with respect to the coverage groups specified in such resolution, which shall also state the effective date of coverage.

(3) Every state employe and state officer while employed in any position which is not included under any retirement system established by statute shall be included under the agreement authorized by sub. (4) if eligible for inclusion, and all participating municipalities which have acted pursuant to s. 66.902 to be included under the Wisconsin retirement funds shall be included when the participating employes thereof are eligible, and each county shall pursuant to s. 66.902 (1a) be included under the agreement as to the county judge, and each county and city shall pursuant to s. 66.902 (1b) be included under the agreement as to full-time judges of courts of record, municipal or inferior (other than county courts), and each city and village shall pursuant to ss. 62.13 (9) (e) and (9a) and 61.65 (6) be included under the agreement as to policemen, and each public agency affected by s. 66.902 (5) (b) shall pursuant thereto be included under the agreement as to the employes affected by such paragraph. This subsection shall not be applicable to services performed in any fireman's position.

(3a) Notwithstanding the provisions of subs. (2), (3) and (4) the persons included under any retirement system, or any coverage group therein permitted under federal law,

may be included under the federal old-age and survivors insurance system pursuant to a referendum held in conformity with section 218 (d) (3) of the federal social security act and a certification by the governor pursuant thereto, and the governor is authorized to take any and all actions which may be required in connection therewith. In the case of each public agency other than the state, a referendum shall be conducted only upon, and in conformity with, a request submitted by the governing body thereof. The agreement with the secretary of health, education and welfare may be modified to cover any such coverage group.

(3b) For the purposes of sub. (3a) the members of the combined group of the state teachers retirement system constitute a coverage group. Members of the state teachers retirement system may be included under the federal old-age and survivors insurance system under sub. (3a) only in accordance with s. 42.241.

(3m) For the purposes of sub. (3a) the members of the combined group of a retirement fund created under s. 38.24 constitute a coverage group. Members of any such retirement fund may be included under the federal old-age and survivors insurance system under sub. (3a) only in accordance with s. 38.24 (3).

(4) The director with the approval of the governor shall pursuant to sub. (3) or upon the submission to him of a certified copy of a resolution adopted by the governing body of any public agency in accordance with sub. (2), execute upon behalf of the state an agreement or modification of an agreement, with the secretary of health, education and welfare for the inclusion of a coverage group of the employes and officers of such public agency under the federal old-age and survivors insurance system established by federal regulations in conformity with such resolution or in conformity with sub. (3) and in conformity with federal regulations. The state and each public agency included under such agreement or modification thereof shall be bound by federal regulations, and by rules and regulations promulgated under sub. (11) including any regulation requiring payment of interest.

(4a) No student or member of a board or commission, except members of governing bodies, shall be included under such agreement when filling a position or office which does not normally require actual performance of duty for at least 600 hours in each year.

(5) Each public agency included under an agreement made pursuant to this section shall be liable for and shall make the contributions required of an employer under the federal insurance contributions act.

(6) Each public agency included under such an agreement shall withhold from the persons compensated by such public agency who are covered by such agreement the portion of such compensation equal in amount to the tax which would be required to be withheld under the federal insurance contributions act if such services constituted employment within the meaning of that act.

(7) The contributions required under subsection (5) and the amounts withheld under subsection (6) shall be remitted by each public agency in conformity with the provisions of federal regulations and the regulations promulgated under subsection (11). The state shall be liable for all such remittances due from public agencies in conformity with the agreement provided for in subsection (4), and shall make payment of all sums which shall become due under subsection (7) and become delinquent.

(8) Whenever any public agency shall fail to remit within the period fixed by rules and regulations promulgated under sub. (11) any sum payable under sub. (7) the director shall certify to the director of budget and accounts: (a) such sums as may be necessary to reimburse the state for all amounts which it may have paid for such public agency, or (b) any interest or minimum fees due thereon under such rules and regulations, or both; and such shall be included in the next apportionment of state special charges to local units of government.

(8a) If any public agency shall fail to transmit to the director any report which it is required to submit to him by law or by any rule or regulation established pursuant thereto for 30 days after the date such report is due, the director shall cause such report to be prepared and furnished to him. Thereupon the director shall submit to said public agency a statement of the expenses incurred in securing such report, including the value of the personal services rendered in the preparation of the same. Duplicates of such statement shall be filed in the office of the director of budget and accounts. Within 60 days after the receipt of the above statement by the public agency such statement shall be audited as other claims against the public agency are audited and shall be paid into the state treasury and credited to the appropriation made by s. 20.640 (1). In default of payment by the public agency, the amount specified in the aforesaid statement shall become a special charge against the public agency and shall be included in the next certification of state taxes and charges and shall be collected, with interest at the rate of 10 per cent per annum from the date such statement was submitted to the public agency, as

other charges are certified and collected, and when so collected such amount and said interest shall be credited to the appropriation made by s. 20.640 (1).

(9) All money received by the state pursuant to this section shall be deposited with the state treasurer in a separate fund which shall be designated the "public employes social security fund." All disbursements from the public employes social security fund shall be made by the state treasurer upon the warrant of the director of budget and accounts and the certification of the director.

(10) The director may refund any money paid into the public employes social security fund in error. To effect such a refund the director shall certify to the director of budget and accounts the name of each public agency entitled to a refund and the amount thereof. Thereupon, and notwithstanding s. 20.555, the director of budget and accounts shall draw his warrant for the amount and in favor of the public agency so certified, and the state treasurer shall pay the same and charge it to the public employes social security fund created by sub. (9).

(11) The director, with the approval of the governor, may promulgate such rules and regulations as may be necessary for the administration of this section.

History: 1951 c. 60, 388, 631; 1953 c. 89, 221, 346, 630, 645, 664; 1955 c. 60, 114, 486; 1957 c. 12, 78, 331.

Employes of school lunch program in city, who were hired by school board or its authorized representative but who were not paid on a regular pay roll of such city, were properly excluded from the Wisconsin retirement fund. Such employes could have been included under federal old age and survivors insurance system if their positions normally required performance of duty for at least 600 hours each year and proper action to accomplish such inclusion had been taken pursuant to ch. 60, Laws 1951. If such employes now are paid on a regular city pay roll and otherwise qualify as participating employes under the Wisconsin retirement fund they could not thereafter be included under the federal old age and survivors insurance system. 40 Atty. Gen. 492.

Procedure for including teachers under social security discussed. 45 Atty. Gen. 60.

Where failure of city to follow 27.10 (1) (b) and 66.042 (1) and (3) results in wrongful exclusion of employe from Wisconsin retirement fund and federal old-age and survivors insurance system, director of public employes social security fund should accept and implement resolution of city which would extend social security coverage to such employe and possibly to others. 46 Atty. Gen. 23.