

CHAPTER 119

FIRST CLASS CITY SCHOOL SYSTEM

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119.01 Applicability. This chapter applies only to cities of the 1st class.

119.02 Definitions. In this chapter, unless the context clearly requires otherwise:

(1) "Board" means the board of school directors in charge of the public schools of a city of the 1st class.

(2) "City" means a city of the 1st class.

(3) "Members-elect" of a body at a particular time are those members who have been duly elected or appointed for a current regular or unexpired term and whose service has not terminated by death, resignation or removal from office.

119.04 Public instruction laws applicable. (1) Subchapters IV and VII of ch. 115, ch. 121 and ss. 66.03 (3) (c), 115.01 (1) and (2), 115.28 (15), 115.34, 115.345, 115.76, 115.77, 115.79 to 115.89, 118.01, 118.015, 118.017, 118.025, 118.03, 118.04, 118.06, 118.07, 118.10, 118.12 (1), 118.125, 118.126, 118.13, 118.14, 118.15, 118.16, 118.18, 118.19 (3) (b) and (7), 118.20, 118.24 (2) (c) to (f), 118.255, 118.30, 118.32, 120.12 (15), 120.13 (1), (14), (17) to (19) and (26), 120.49 (6) and (14) and 120.61 are applicable to the board of school directors and to schools in 1st class cities.

(2) The board shall exercise the powers, perform the functions and be entitled to all school aid under sub. (1) insofar as the same are relevant to cities of the 1st class. The board and the schools in cities of the 1st class shall be governed in all matters by the general laws of

the state, except as altered or modified by express amendments.

History: 1971 c. 152 s. 38; 1971 c. 154 s. 80; 1973 c. 89 s. 20 (1); 1973 c. 90; 1973 c. 188 s. 6; 1973 c. 243, 254, 290, 307, 333; 1975 c. 39, 41, 95, 220, 379, 395, 422; 1977 c. 29; 1977 c. 203 s. 106; 1977 c. 206, 284, 447; 1979 c. 20; 1979 c. 34 s. 2102 (43) (a); 1979 c. 221, 298, 331; 1979 c. 346 s. 15; 1979 c. 355; 1981 c. 59; 1981 c. 241 s. 4; 1983 a. 193; 1983 a. 339 s. 10; 1983 a. 374 s. 12; 1983 a. 412, 489, 538.

119.06 Initial establishment of board. (1) Members of a school board in existence in a city immediately prior to the date on which such city becomes a city of the 1st class shall continue to hold office and shall exercise all of the rights and privileges and discharge the duties of members of the board until their successors appointed under sub. (2) are appointed and qualified.

(2) Within 120 days after the date on which a city becomes a city of the 1st class, the mayor, the city treasurer, the city comptroller, the city attorney and the president of the common council of such city, acting as a commission for the city, shall meet and appoint a board of one at-large member and 8 members from districts composed of combined aldermanic districts or parts thereof, with boundary lines to coincide as closely as possible with aldermanic districts as designated by the common council. The common council shall designate which aldermanic districts or parts thereof are to be combined for each seat on the board for members appointed from combined aldermanic districts. The combined aldermanic districts shall be substantially equal in population and the boundaries of the districts shall be drawn so as to reflect a balanced representation of citizens of all areas within the city. The person appointed to repre-

sent a combined aldermanic district shall reside within the boundaries of the district as determined by the common council under this subsection.

(3) The terms of members first appointed to the board by the commission shall be as follows:

(a) The at-large member and 4 of the combined aldermanic district members shall serve for a term beginning on the 4th Monday of the month next following their appointment and expiring on the 4th Monday in April in the 2nd year following the year in which a city becomes a city of the 1st class.

(b) Four of the combined aldermanic district members shall serve for a term beginning on the 4th Monday of the month next following their appointment and expiring on the 4th Monday in April in the 4th year following the year in which a city becomes a city of the 1st class.

(4) (a) Within 90 days after the board members appointed by the commission under sub. (2) have taken office, the common council of the city may, by resolution adopted by a majority of its members-elect, call a special election to elect successors to the board members so appointed. Such resolution shall be introduced at a regular meeting of the common council. No action may be taken on the resolution until the next regular meeting of the common council and until the resolution has been published as a class 1 notice, under ch. 985, together with a notice of the time when the resolution will be considered by the common council.

(b) The board members elected at the special election shall be nominated and elected to succeed the board members appointed for the terms expiring under sub. (3) (a) and (b) and for the same terms. The terms of office of the board members elected at such special election shall begin on the 4th Monday of the month following the election.

(c) Candidates for the board at the special election shall be nominated in the same manner as for the spring election.

(d) The special election shall be held at the polling places and shall be conducted in the manner of and by the election officials for the spring election.

(5) The board first appointed under sub. (2) or first elected at a special election under sub. (4) shall hold an organizational meeting under s. 119.10 (2) on the 4th Monday of the month, or the next day if the 4th Monday is a legal holiday, following their appointment or election, and annually thereafter shall meet in accordance with s. 119.10 (2).

(6) Successors to board members appointed under sub. (3) or elected under sub. (4) shall be elected at the spring election immediately pre-

ceding the expiration of the terms of such board members and shall serve for 4-year terms.

(7) This chapter does not affect the term of office or employment of any person serving in any capacity by virtue of an appointment or contract of employment made by the school board in a city prior to the date on which a city becomes a city of the 1st class, but such person shall continue to serve in the same capacity under the board for the term for which he was so appointed or employed, unless removed from such office or employment for the causes and in the manner provided in this chapter.

History: 1977 c. 445; 1983 a. 484.

119.08 Election of board members. (1) The board shall consist of one at-large member and 8 members from districts composed of combined aldermanic districts or parts thereof, with boundary lines to coincide as closely as possible with aldermanic districts selected in accordance with this chapter. The combined aldermanic districts shall be substantially equal in population and the boundaries of the districts shall be drawn so as to reflect a balanced representation of citizens in all areas within the city. The person elected to represent a combined aldermanic district shall reside within the boundaries of the district. No person is eligible to be a member of the board if that person holds an office in any political organization or a lucrative city, county or state office, other than the office of notary public. Before taking office, the members of the board shall take the official oath of office and file it, duly certified by the officer administering the oath, with the city clerk.

(1m) In cities of the 1st class in existence on December 1, 1978, the combinations of aldermanic districts from which the 8 board members are to be elected are as follows:

(a) School board district 1 is composed of aldermanic districts 9 and 15.

(b) School board district 2 is composed of aldermanic districts 2 and 5.

(c) School board district 3 is composed of aldermanic districts 1 and 10.

(d) School board district 4 is composed of aldermanic districts 6 and 3.

(e) School board district 5 is composed of aldermanic districts 12 and 4.

(f) School board district 6 is composed of aldermanic districts 7 and 16.

(g) School board district 7 is composed of aldermanic districts 11 and 8.

(h) School board district 8 is composed of aldermanic districts 13 and 14.

(2) The electors of each combined aldermanic district shall elect one member residing within the district to represent the district. The at-

large member shall be elected by the electors of the city. Board members shall be electors of the city and shall be elected at the spring election. Candidates shall file for full terms or for specific unexpired terms. The primary and spring elections for board members shall be conducted by the election officials for the election of judicial or other officers held on that date. The polling places for the state, municipal or judicial election shall be the polling places for the board election and the municipal election hours shall apply. At the board election the candidates receiving the highest number of votes for each seat for which they are seeking election shall be declared elected.

(3) The regular terms of board members shall be 4 years.

(4) A vacancy on the board shall be filled by a special election ordered by the board. At such election the vacancy shall be filled for the unexpired term. The board shall follow procedures under s. 8.50, so far as applicable.

History: 1977 c. 445; 1983 a. 105, 484

119.10 Meetings of the board. (1) The board is a continuing body. Any unfinished business before the board or any of its standing or special committees on the 4th Monday in April shall be considered as pending before the board newly organized on such date. At its annual April meeting, after the election of the new board president, the secretary-business manager of the board shall report to the board items of business pending before the board as a whole. After the annual April meeting, unless otherwise directed by the board, the secretary-business manager shall report items of business which had been pending before committees of the board to the corresponding committees of the board appointed by the new president. Matters thus reported may be acted upon by the board in the same manner and with the same effect as if the board had not been newly organized.

(2) Annually on the 4th Monday in April, or on the next day if the 4th Monday is a legal holiday, the board shall hold its organizational meeting and shall elect a president from among its members to serve for one year and until a successor is chosen. In the absence or during the disability of the board president, the board shall elect an acting president. The board president shall appoint standing committees to serve for one year.

(3) The board shall hold a regular meeting at least once each month at times fixed and published by the board in its rules. If a regular board meeting falls on a legal holiday, it shall be held on the next business day. Special meetings may be called and held as provided by the rules of the board. No business may be transacted at

a special meeting other than that specified in the notice of the meeting, which shall be delivered personally or by mail to each member at least 24 hours before the time of such meeting.

(4) A majority of the members-elect of the board constitute a quorum for the transaction of business but a smaller number may adjourn. A majority of the members-elect of the board shall be necessary to elect any person authorized to be elected by the board.

(5) If a board member is absent for 4 successive board meetings without presenting satisfactory reason therefor in writing to the board, the board shall declare his seat vacant and shall fill the vacancy under s. 119.08 (4). If any person appointed or elected by the board is absent or is unable to perform the duties of his office, the board may appoint or elect a suitable person to act in his place during his absence or inability.

(6) All elections or appointments by the board shall be by roll call vote which shall be entered by the secretary-business manager in the minutes and printed proceedings of the board.

History: 1977 c. 445; 1979 c. 110.

119.12 Board; general provisions. (1) Board members are subject to all restrictions, liabilities, punishments and limitations, including recall under s. 9.10 (4), prescribed by law for members of the common council in their city. A majority of the members-elect of the board may dismiss from office for malfeasance any member of the board. The board shall provide by resolution the manner of hearing and disposing of complaints against a board member.

(2) In any action or proceeding in which the board is a defendant, service of any summons, writ, pleading or other papers served in commencing the action or proceeding upon the board president, the superintendent of schools and the secretary-business manager constitutes service upon the entire board. It is sufficient to serve on such 3 officers any notice required by law to be served upon the board.

(3) Each member of the board shall be paid an annual salary in the amount set by the board. The salary shall be paid monthly.

(4) The board shall not in any one year contract any debt or incur any expense greater than the amount of the school funds subject to its order.

(5) If the board president is by law a member of any board or commission, the board may appoint another board member to serve on such board or commission in place of the board president.

(6) The city attorney of the city shall be the legal advisor of and attorney for the board,

except that the board may retain an attorney to represent the board in any action or proceeding brought for or against the board if the board determines that the city attorney cannot adequately represent the interest of the board due to an inability to provide the necessary legal counsel, a lack of expertise or a conflict of interest.

History: 1977 c. 318, 403, 445, 447; 1983 a. 27

119.16 Board; duties. (1) EDUCATIONAL PRIORITIES AND OBJECTIVES. The board and the superintendent of schools shall identify broad yearly objectives and assess priorities for education in the district and shall issue an annual report and such additional reports as the board and superintendent deem desirable on the progress of pupils enrolled in the public schools.

(1m) MANAGEMENT OF SCHOOLS. The public schools in every city of the 1st class shall be under the management, control and supervision of the board.

(2) ESTABLISH SCHOOLS AND DISTRICTS. The board shall maintain the public schools in the city and shall establish, organize and maintain such schools as the board determines are necessary to accommodate the children entitled to instruction therein. The board shall divide the city into attendance districts for such schools.

(3) BUILDINGS AND SITES. (a) The board shall construct, purchase, lease, improve or enlarge buildings and purchase furniture and sites for the public schools, shall purchase, install and maintain heating systems in public schools and may contract for carrying out any of these purposes.

(b) Schoolhouses and the sites on which they are situated shall be the property of the city, but no site may be purchased or leased and no schoolhouse may be constructed unless a resolution therefor is duly adopted by the board. Deeds of conveyance and leases shall be made to the city.

(4) UNIFORM INSTRUCTION. The board shall require that the system of instruction in the public schools be as nearly uniform as possible.

(5) SPECIAL COURSES. Within budgetary limitations, the board shall establish in any public school, in grade 7 and higher, such classes of instruction consistent with the educational goals and objectives adopted by the board under sub. (1) as are petitioned for by the parents of a number of pupils attending the school sufficient to form one or more classes of instruction. Petition by the parents of 30 or more pupils of like classification attending any such school requesting the establishment of instruction in a specified subject is prima facie evidence of the sufficiency of the number of pupils to commence instruction therein.

(6) CUSTODIANS OF SCHOOL PREMISES. The board shall fix the duties and responsibilities of principals, as custodians of the school premises, and of the school engineers. Each principal shall have general supervision of and shall be custodian of all school premises over which he presides.

(8) BUDGET. (a) Annually before adopting its budget for the ensuing school year and at least 5 days before transmitting its completed budget under par. (b), the board shall hold a public hearing on the proposed school budget at a time and place fixed by the board. At least one week before the public hearing, the board shall publish a class 1 notice, under ch. 985, of the public hearing.

(b) The board shall transmit its completed budget to the common council on or before the first Monday in August of each year on forms furnished by the auditing officer of the city. Such completed budget shall be published with the budget summary under s. 65.04 (2) or 65.20 and budget under s. 65.05 (7).

(9) USE OF SCHOOL BUILDINGS AND ATHLETIC FIELDS. (a) Upon the request of the common council of the city, the board shall grant the use of school buildings and athletic fields used in connection therewith, and make a reasonable charge therefor, for functions stated in the request, such as amateur football, basketball, track, physical culture and hygiene and physical exercises, when such functions do not interfere with regular school activities on regular school days. Such buildings and athletic fields shall not be used for political propaganda, lectures on atheism or discussion or speeches subversive of the government of this country.

(b) The board is not required to grant more than 3 such requests in any one calendar month or a request for the use of a school athletic field on a Friday evening or Saturday during the months of September, October or November.

(c) No admission may be charged any person desiring to attend such functions either as a participant or a spectator, except that if such use is granted to a high school, the high school may charge a reasonable admission fee.

History: 1973 c. 17, 188; 1975 c. 353; 1977 c. 109; 1983 a. 391

Discussion of authority of school board to contract for services and facilities for academically and socially retarded children 61 Atty Gen. 203.

119.18 Board; powers. (1) RULES. The board may adopt and modify or repeal rules for its own government and for the organization, discipline and management of the public schools which shall promote the good order and public usefulness of the public schools.

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(2) DISTRIBUTION OF PRINTED PROCEEDINGS. The board may determine the distribution of the printed proceedings of the board.

(3) TRANSPORTATION. The board may provide for the transportation of pupils to and from any school within the city.

(5) TEXTBOOKS FOR INDIGENT PUPILS. The board may purchase textbooks for pupils whose parents, guardians or other persons having control or custody of such pupils are without means to furnish them with textbooks, if the indigency of such pupils have been investigated and certified by a welfare worker or attendance officer. The local governmental authority administering poor relief in the city shall reimburse the board for all expenditures by the board for such textbooks. Such textbooks shall be the property of the city and subject to the disposal of the board.

(6) SCHOOL CALENDAR. The board may determine the school calendar and vacation periods for each school year for the regular day schools, summer schools, social centers and playgrounds, except that:

(a) The period of teaching service in the regular day schools shall not exceed 200 days, including the legal holidays and educational convention days on which the schools are closed.

(b) The board may close any school or dismiss any class in the event of an emergency, fire or other casualty, quarantine or epidemic.

(7) SCHOOL HOURS. The board may establish rules scheduling the hours of each school day during which the schools shall be in session. The board may differentiate between the various grades in scheduling such school hours.

(8) SCHOOLS CLOSED. The board may determine on which national, state and local legal holidays and for which educational conventions the public schools shall be closed. There shall be no deductions from the annual or monthly compensation of employes not rendering services on such days.

(9) ENROLLMENT UNDER LEGAL NAME. The board may require that any pupil attending public school shall be enrolled under his legal name.

(10) EMPLOYES. (b) Subject to ss. 63.18 to 63.53 when applicable, the board may employ and determine the qualifications, duties and compensation of any persons as are required in the operation and management of the schools.

(c) The board may employ a staff to aid it in its duties. The board shall determine the compensation, duties and qualifications of its staff, including whether or not employment of such staff shall be subject to ss. 63.18 to 63.53.

(11) BONDED OFFICERS AND EMPLOYES. The board may require any officer or employe of the board to give security for the faithful performance of his duties in such form and amount as the board determines, and may require at any time additional bonds and sureties of any officer or employe.

(12) EMPLOYER CONTRIBUTION. The board may make as the employer agency the contributions to the city retirement system payable under chapter 396, laws of 1937, in respect to its employes who are members of such system.

(13) EXCHANGE TEACHERS. The board may make an agreement with the managing body of the schools in any city or school district in the United States or another country for the exchange of one of the board's teachers for a teacher of such other city or school district for a period not exceeding one school year. The board shall determine the qualifications and compensation of the teacher rendering service under the agreement in the schools under its jurisdiction, who shall be counted as a regular teacher in the city in the computation of state and county school aids. The agreement shall state:

(a) The manner and by whom the salaries of such exchange teachers shall be paid.

(b) That any teacher regularly employed by the board under this chapter shall receive credit for the year of exchange teaching service in the computation of any benefits to which he is entitled under ch. 40 and the manner in which the monthly reservations shall be paid under that subchapter.

(c) Such other provisions as the board and the other managing body deem appropriate.

(14) SALES AND CHARGES. The board may establish and maintain, in any of the schools or playgrounds under its jurisdiction, cafeterias and stores for the sale of schoolbooks, candies, refreshments and supplies. The board also may charge or permit the making of a charge for admission to any school, social center or athletic entertainment or activity, under such terms and conditions as the board prescribes.

(16) GIFTS AND GRANTS. The board may receive, accept and use gifts or grants of furniture, books, equipment, supplies, moneys, securities or other property used or useful for school and educational purposes. All moneys received as gifts or grants shall be deposited in the school operations fund but shall be considered segregated trust funds. The board shall make such use of gifts or grants, or invest the same in the case of moneys, as the donor or grantor specifies. In the absence of any specific direction as to the use of such gifts or grants by a donor or grantor, the board may determine

the use of or may invest the same in accordance with the law applicable to trust investments. In the use, control or investment of such gifts or grants, the board may exercise the rights and powers generally conferred upon trustees.

(17) PURCHASES FROM HOUSE OF CORRECTION. The board may purchase for use in the schools, from any county in which the city is located, furniture, furnishings and equipment manufactured in any house of correction under s. 56.16 (1). The board may waive the furnishing by the county or institution of bid bonds and performance bonds otherwise required by the statutes in connection with any such purchase.

(18) COPYRIGHT MATERIALS. The board may copyright under the applicable federal laws any book, pamphlet, bulletin or record form edited and published by or under the direction of the board.

(19) FENCES. The board may construct around any schoolhouse or playground site a fence of materials and design approved by the board.

(20) DIPLOMAS. The board may grant diplomas in testimony of the completion of high school or special education requirements, including the requirements of special schools established under s. 119.28 and special classes, centers or services established under s. 115.83.

(21) RULES ON CONDUCT AND DRESS. The board may establish rules pertaining to conduct and dress of pupils in order to maintain good decorum and a favorable academic atmosphere.

(22) RECORDS CUSTODIAN. On behalf of any school district authority as defined in s. 19.32 (1), including the board, school district officers and any subunit of the board or school district, designate one or more persons to be legal custodians of records.

History: 1973 c. 16, 21, 91, 188, 243; 1981 c. 96 ss 45, 46, 67; 1981 c. 335.

119.22 Sex discrimination in physical education or physical training prohibited. Courses in physical education or physical training may not discriminate on the basis of sex in the provision of necessary facilities, equipment, instruction or financial support, or the opportunity to participate in any physical education or training activity as provided in 20 USC 1681 et seq.

History: 1971 c. 219, 307, 336; 1973 c. 188; 1977 c. 284; 1979 c. 53; 1983 a. 36, 412.

119.24 Admission of pupils. (1) Each school under the jurisdiction of the board shall be open to pupils residing within the attendance district established for that school under s. 119.16 (2). A pupil residing in any such district may attend a school in another district with the written permission of the superintendent of schools.

(2) Pupils who are nonresidents of the city may be admitted to the schools under the jurisdiction of the board in accordance with such regulations and upon the payment of such tuition charges as the board reasonably establishes. The board shall admit such nonresident pupils to a school only if the existing facilities, building, classroom instruction and equipment are sufficient to accommodate additional pupils.

119.26 Partial annexation of school district.

When the city has annexed a portion of the territory of a school district and such annexation does not include the site of any school building of such school district, the school board of the district and the board may enter into an agreement to permit pupils residing in the annexed territory to continue to attend school in the school district, and the board shall pay tuition to the school district for the pupils in accordance with s. 121.82.

119.28 Special schools. (1) The board shall establish and maintain such special schools for children with exceptional educational needs, as defined in s. 115.76 (3), as are required to accommodate pupils of school age desiring to attend school. The board shall prescribe the courses of study and the educational and other activities in special schools.

(2) The board may employ teachers to give instruction in homes or hospitals to pupils unable to attend special schools.

(3) The board may provide transportation for pupils attending special schools and provide school lunches for pupils under such terms as it determines.

(4) The superintendent of schools shall prescribe, with the approval of the committee on instruction, the periods of instruction at special schools subject to amendment, rejection or confirmation by the board.

(5) Any action under subs. (3) and (4) shall be subject to the direction of the state superintendent and the division for handicapped children and pupil services of the department of public instruction as provided by law.

History: 1973 c. 89; 1983 a. 27 s. 2200 (42).

119.30 Trade schools. (1) The board may establish, conduct and maintain one or more schools for the purpose of giving practical instruction in the useful trades and may purchase the proper machinery, tools and equipment and employ a sufficient number of teachers and other necessary employes in such schools. Such schools shall be known as senior trade schools and junior trade schools.

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(2) Until otherwise determined by the board, only pupils who have completed the 8th grade in an accredited school whose graduates are eligible for admission to a high school in the city shall be admitted to the senior trade schools. Only pupils who have attained the age of 14 years or have completed at least 6 grades in elementary school shall be admitted to the junior trade schools.

(3) The board may require pupils in trade schools to pay the cost of all materials consumed in the course. In lieu of such requirement, the board may establish a fixed sum to be paid by each pupil in a course which shall be sufficient to cover the cost of materials to be consumed by him in the course. The board may sell any articles made or manufactured in trade schools, and the proceeds from such sales shall be paid into the school operations fund.

History: 1973 c. 15.

119.32 Superintendent of schools. (1) The board shall elect by roll call vote at a regular meeting a superintendent of schools whenever that office becomes vacant. The superintendent of schools shall be a person of suitable learning and experience in the art of instruction and shall have practical familiarity with the most approved methods of organizing and conducting a system of schools. The superintendent of schools shall hold office until July 1 next following his election and for not less than 3 nor more than 5 years thereafter, as the board determines. If the incumbent superintendent of schools is reelected, his term of office shall be for 5 years.

(2) Under the direction of the board, the superintendent of schools shall have general supervision of:

(a) The public schools and the manner of conducting and grading such schools.

(b) The assistant superintendents, supervisors, educational department heads, professional assistants to the superintendent of schools, principals, vice principals and teachers in the city.

(3) Subject to confirmation by the board, the superintendent of schools shall appoint such assistant superintendents, supervisors, educational department heads and other assistants and supervisors as are authorized by the board.

(4) The superintendent of schools shall be an advisory member of every committee of the board, except when an inquiry into his acts or an investigation of his official conduct is under consideration by such committee.

(5) The superintendent of schools shall assign all teachers and engage and assign substitute teachers at the per diem compensation fixed by the board.

119.34 Secretary-business manager of the board. (1) The board shall elect a secretary-business manager of the board whenever that office becomes vacant and shall fix his salary.

(2) The secretary-business manager shall attend the meetings of the board and its committees, shall keep a record of the proceedings thereof, shall keep a full account of all receipts and expenditures of the board and shall perform such other duties as the board requires.

(3) Before taking office the secretary-business manager shall execute a bond to the city in such form and with such penalty and conditions as the board prescribes, with sureties to be approved by the board. The bond shall be filed in the office of the city clerk of the city.

(4) The secretary-business manager shall take an annual census of all persons between the ages of 4 and 20 residing in the city and at the same time shall collect such additional statistics and information relating to schools and the population entitled to school privileges in the city as the board directs.

119.36 Dismissal of superintendent of schools or secretary-business manager. By a two-thirds vote of the members-elect and upon compliance with this section, the board may remove from office the superintendent of schools or the secretary-business manager for a misdemeanor in office, incompetency or inattention to the duties of his office. Notice in writing of the charges against the accused and of the time and place of hearing and acting upon the charges shall be served upon the accused at least 5 days before the time of hearing and before any action is taken by the board on the charges. On demand, the accused shall be heard by himself or counsel. Both the board and the accused may produce witnesses who shall be sworn by the board president and shall give testimony subject to the penalty for perjury.

119.40 Salary schedules. (1) (a) Annually, the board shall establish a schedule of salaries for all classroom teachers, not including principals and vice principals, in the schools of the city.

(b) Annually, the board may establish one or more schedules of salaries for all its employees not covered under par. (a).

(2) All schedules of salaries annually fixed by the board shall be adopted for the same period and on the same year basis as the annual school budget is adopted by the board.

119.42 Teacher tenure. (1) The appointment of a teacher, as defined in s. 40.02 (55), in the city shall be on probation. After successful

probation by completing 3 years of continuous service, the appointment shall be permanent during efficiency and good behavior. A teacher who has taught 3 years or more in the city immediately prior to the date on which such city becomes a city of the 1st class is deemed to have served his term of probation. A teacher who has a permanent appointment shall not be discharged, except for cause upon written charges. After 10 days written notice to the teacher of the charges and upon the teacher's written request, the charges shall be investigated, heard and determined by the board. The action of the board on the matter shall be final.

(2) Any teacher employed in a public school in territory annexed to the city, who at the time of the annexation possesses the qualifications required by law and by the rules of the board for probationary or permanent appointment to a teaching position in the city, shall have the status of a regularly appointed teacher in the schools of the city and shall be entitled to all the rights and privileges of regularly appointed teachers in the city. Time spent in teaching in the annexed territory prior to annexation shall be credited to each such teacher as time spent in teaching in the city.

History: 1981 c. 96 s. 67.

Teacher tenure laws are in derogation of the common law, creating a contract between the parties by operation of law, and therefore are to be strictly construed, and the scope of the tenure created by the statute, or by school board rule enacted pursuant to statute, must be determined from the language of the section and cannot be broadened beyond the intent of the legislature. *State ex rel. Farley v. Bd. of School Directors*, 49 W (2d) 765, 183 NW (2d) 148.

119.44 Board report. Annually, the board shall file a report with the common council and shall send a copy of the report to the state superintendent and the director of the historical society. The annual report shall contain:

(1) The general proceedings and acts of the board.

(2) The number and condition of the public schools operated during the year and the number of school days on which each was operated.

(3) The number and names of all teachers.

(4) The number of children attending each school.

(5) The result of the annual census conducted under s. 119.34 (4).

(6) The extent of school accommodations in the several schools.

(7) The amount of money received during the year for school purposes, designating separately the amounts received from the state, from taxes levied by the county board and from taxes levied by the common council.

(8) The amounts allowed by the board against the school funds, in detail.

(9) Such other information as the board deems useful or the common council requires.

119.46 Taxes for school operations fund. As part of the budget transmitted annually to the common council under s. 119.16 (8) (b), the board shall report the amount of money required for the ensuing school year to operate all public schools in the city under this chapter, to repair and keep in order school buildings and equipment, to make material improvements to school property and to purchase necessary additions to school sites. The common council shall levy and collect a tax upon all the property subject to taxation in the city, which shall be equal to the amount of money required by the board for the purposes set forth in this section, at the same time and in the same manner as other taxes are levied and collected. Such taxes shall be in addition to all other taxes which the city is authorized to levy. The taxes so levied and collected, together with the other funds provided by law and placed at the disposal of the city for the same purposes, shall constitute the school operations fund.

History: 1975 c. 353

See note to 806.04, citing *Tooley v. O'Connell*, 77 W (2d) 422, 253 NW (2d) 335.

119.47 Taxes for school extension fund. (1) If activities are being conducted under s. 120.61, the board as part of the budget transmitted annually to the common council under s. 119.16 (8) (b) shall report the amount required for the ensuing school year under s. 120.61 (3).

(2) The school extension fund taxes in any one year shall not exceed the levy rate specified in s. 65.07 (1) (g).

History: 1971 c. 211 s. 126; 1975 c. 353.

119.48 Taxes for school construction fund.

(1) If the board adopts a resolution by a two-thirds vote of the members-elect to provide funds, in addition to receipts from the sale of bonds, to purchase school sites, to construct school buildings and additions thereto or to remodel existing buildings, the board may include, as part of the budget transmitted to the common council under s. 119.16 (8) (b), a communication stating the amount of funds needed for such purposes. Upon receipt of the communication, the common council shall levy and collect a tax upon all property subject to taxation in the city, which shall be equal to the amount of money required by the board for the purposes set forth in the communication, at the same time and in the same manner as other taxes are levied and collected. Such taxes shall be in addition to all other taxes which the city is authorized to levy. The taxes so levied and

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collected shall constitute the school construction fund. The board may allow the school construction fund to accumulate from year to year.

(2) The common council shall have the following options on the board's communication under sub. (1):

(a) To levy and collect a tax equal to the amount of money specified by the board under sub. (1).

(b) To levy and collect a tax to realize part of the money so specified and to provide the remainder thereof from the permanent improvement fund of the city.

(c) To decline to levy and collect a school construction fund tax and to provide the entire amount of money so specified from the permanent improvement fund.

(3) (a) The school construction fund taxes in any one year shall not exceed the levy rate specified in s. 65.07 (1) (f).

(b) The school construction fund tax levy shall be reduced in any year only by the amount which the common council in such year provides from the permanent improvement fund of the city.

119.49 Bond issues. (1) (a) If the board deems it necessary to construct buildings or additions to buildings, to remodel buildings or to purchase school sites or to provide funds for any such purpose as a participant in a contract under s. 66.30 (6), it may by a two-thirds vote of the members-elect send a communication to the common council of the city at or before the 2nd regular meeting of the common council in October in each year.

(b) The communication shall state the amount of funds needed under par. (a) and the purposes for which the funds will be used and shall request the common council to submit to the voters of the city at the next election held in the city the question of issuing school bonds in the amount and for the purposes stated in the communication.

(2) Upon receipt of the communication, the common council shall cause the question of issuing such school bonds in the stated amount and for the stated school purposes to be submitted to the voters of the city at the next election held in the city. The question of issuing such school bonds shall be submitted upon a separate ballot or in some other manner so that the vote upon issuing such school bonds is taken separately from any other question submitted to the voters. If a majority of the electors voting on the school bond question favors issuing such school bonds, the common council shall cause the school bonds to be issued immediately or

within the period permitted by law, in the amount requested by the board and in the manner other bonds are issued.

(3) The proper city officials shall sell or dispose of the bonds in the same manner as other bonds are disposed of. The entire proceeds of the sale of the bonds shall be placed in the city treasury, subject to the order of the board for the purposes named in the communication under sub. (1). Such school bonds shall be payable within 20 years from the date of their issue.

(4) The common council shall levy and collect a tax upon all taxable property in the city, in the same manner and at the same time as other taxes are levied and collected, which shall be sufficient to pay the interest on all school bonds issued under this chapter which are outstanding and to pay such part of the principal of such school bonds as becomes due during the ensuing school year.

(5) The amount of such school bonds outstanding at any time shall not be greater than 2% of the total value of all taxable property in the city as certified under s. 121.06 (2). The tax levied to pay the interest and principal on such school bonds shall be in addition to the tax levied for general purposes upon all the taxable property of the city.

History: 1973 c. 92, 172; 1975 c. 353; 1977 c. 418

119.50 Disbursement of moneys. (1) All moneys received by, or raised in the city for school purposes shall be paid over to the city treasurer. Such moneys shall be disbursed by the city treasurer on the written order of the secretary-business manager, countersigned by the auditing officer of the city.

(2) The board may provide by resolution for the payment of all persons employed by the board upon monthly payrolls and for the manner in which such payrolls shall be certified, audited, approved and payment made thereon. Such payrolls shall be certified by the board president and the secretary-business manager, and countersigned by the auditing officer of the city.

History: 1971 c. 291

119.52 Contracts and bidding. (1) (a) The board shall advertise for bids for construction work involving the expenditure of \$5,000 or more and for the purchase of materials, supplies and equipment not to be used for new construction work where the estimated cost is \$10,000 or more.

(b) The board may call for competitive bids on advertised notice or for informal bids on plans and specifications without such notice when the amount of expenditures involved is

less than \$5,000 for construction work and less than \$10,000 for the purchase of materials, supplies and equipment not to be used for new construction work.

(2) The board shall advertise prior to the date set for opening of the bids, by publication of a class 2 notice, under ch. 985, for proposals on contracts under sub. (1) (a) involving the expenditure of \$10,000 or more, and by publication of a class 1 notice, under ch. 985, for proposals involving the expenditure of less than \$10,000. Prior to so advertising, the board shall file in the board office for the information of bidders and others, a plan or profile of the work to be done and specifications therefor, or other appropriate sufficient description of the work required to be done and the kinds or qualities of the materials, equipment and supplies to be furnished. The contracts may be awarded on the day the bids are opened or thereafter.

(3) (a) All proposals shall be sealed and shall be directed to the board. Proposals involving the expenditure of \$10,000 or more shall be accompanied by a bid bond executed by a surety corporation licensed to transact business in this state in a penal sum fixed by the board of not less than 5% nor more than 10% of the estimated cost of the construction work or the materials, equipment or supplies. In lieu of a bid bond, the bidder may accompany the bid with a certified check, a certified share draft, other certified draft, a bank cashier's check or cash in the amount required by the board. If the bidder awarded the contract requiring a bid bond fails or refuses to execute the contract and performance bond, the amount of the bid bond, certified check, certified share draft, other certified draft, cashier's check or cash shall be forfeited to the city as liquidated damages.

(b) The board may demand that prospective bidders prequalify as to responsibility and competence.

(c) A bidder may, by written notice to the board, withdraw his bid before the time set for opening bids and may file additional bids before the opening date, but when the bids are opened at the prescribed time no bidder may withdraw or amend his bid for any reason. If the bidder appears to be acting in good faith and by oversight or error has made an improvident bid, the board may reject such bid if it is the low bid and award the contract to the next lowest responsible bidder.

(d) The board may reject any or all bids and waive minor irregularities. As to bids on contracts under sub. (1) (a) involving the expenditure of less than \$10,000, the board may delegate its power to accept and reject bids and to waive minor irregularities to persons designated by the board.

(4) If the advertisement calls for the performance of different kinds of construction work or the furnishing of different kinds or qualities of materials, equipment or supplies, such contracts may be let in whole or in part to the lowest responsible bidder for particular parts of the proposed contract.

(5) (a) All contracts shall be made in the name of the city, shall be executed by the president and secretary-business manager of the board and countersigned by the comptroller, and shall be approved as to form and execution by the city attorney or the attorney retained by the board under s. 119.12 (6). A performance bond in the principal amount of the contract shall be required on all contracts let by the board.

(b) The board shall fix the time of completion of the contract and may, for good reason, extend the time for completion.

(c) The board shall insert in all contracts appropriate provisions, terms and conditions providing for suitable indemnity to the city against loss or expense, for the payment of prevailing wage rates, for hours of daily work, for payments on account to the contractor as the work progresses and deliveries are made and for other particulars for the protection of the city.

(d) The board shall fix the amount of liquidated damages for failure of the contractor to complete the contract at the specified time, which damages shall not exceed one-half of one per cent of the estimated cost involved for each day of default. The board may for good reason waive liquidated damages for failure to complete at the time prescribed in the contract.

History: 1973 c. 187; 1983 a. 27, 143, 368, 538.

119.54 Construction contracts; referendum.

(1) If the board proposes to construct a building or an addition to a building or to remodel a building and the proposed construction or remodeling work involves an estimated expenditure of \$250,000 or more, the board shall take action designating the site upon which the proposed work is to be done, the general plan and purpose of the construction or remodeling work and the estimated expenditure therefor. The board shall not advertise for bids or let contracts for the proposed construction or remodeling work until at least 90 days after such action is taken.

(2) (a) Within 90 days after such action is taken, a number of electors of the city equal to not less than 15% of the vote cast in the city for governor at the last general election may file a petition with the city clerk requesting that the board's proposal to do such work be referred to a vote of the electors in the city. If a petition is

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so filed the board shall not advertise for bids or let contracts for such proposed work until the proposal is approved by a majority of those voting at the election, unless the petition is found to be insufficient and is not corrected within the required time. The city clerk shall notify the board immediately of the filing of such petition and of its sufficiency or insufficiency, originally or after amendment. If a petition is not filed within the 90 days or if an insufficient petition is not corrected within the required time, the board may advertise for bids and let contracts for such proposed work.

(b) The petition under par. (a) shall be prepared in accordance with the requirements of s. 8.15 relating to the use of more than a single piece of paper, the dates of signatures, the places of residence of signers and the verification thereof. Within 15 days following the filing of the petition, the city clerk shall examine the petition, determine the sufficiency or insufficiency of the petition and state his finding in a signed certificate dated and attached to the petition. If the city clerk finds the petition to be insufficient, he shall state in the certificate the reasons for his finding. Within 10 days following the date of the certificate, the petition may be amended to correct the insufficiency. If originally or after amendment the city clerk finds the petition to be sufficient, the city clerk shall so state in his certificate and immediately shall submit the certificate to the common council.

(3) (a) After receipt of the certificate, the common council shall order the question of doing the proposed work to be submitted to the electors of the city at the next regular election held not less than 40 days after the date of such certificate or, by a three-fourths vote of the members-elect, may order the question submitted at a special election called for that purpose prior to such regular election. No more than one such special election may be called in any 6-month period.

(b) Not less than 5 nor more than 20 days before the election on the proposed work, the city clerk shall publish the question to be voted upon in at least 2 and not more than 4 daily newspapers published in the city.

(c) If a majority of the electors voting thereon vote in favor of the proposed work, the board may advertise for bids and let contracts in connection with such work.

119.58 Instalment contracts for lands and improvements. The board may purchase for school purposes land within the city and the improvements thereon by a written contract made in accordance with this section.

(1) The contract shall not be entered into unless authorized by a resolution which specifies the terms of purchase and is adopted by at least a three-fourths vote of the members-elect of the board, specifying the terms of purchase. The contract shall be made in the name of the city and shall be signed in behalf of the city by the board president and the secretary-business manager and countersigned by the city comptroller. The amount of the contracts entered into in any one year under this section shall not exceed \$50,000.

(2) The contract shall provide for the payment of the purchase price by instalments extending over a period of not more than 5 years from the date of the contract and for the payment of interest on the outstanding principal at a rate not exceeding 6% per year. The board shall pay the instalments out of any funds available for school purposes or out of any bond issues expressly authorized by law for the purchase of sites and construction of buildings.

(3) The contract shall provide that the interest on all deferred payments shall be paid by the board out of any funds available for school purposes under the mill limits provided by law for school purposes in the city, but no interest may be paid out of any moneys derived from the sale of bonds.

(4) The contract shall provide that the contract may be retired at any time within the 5 years upon the payment of the entire principal by the board and that when such payments are made the interest on the contract shall cease.

(5) The contract shall provide that during the period of the contract the city shall have all the rights of an owner in fee simple with respect to the use of such lands and improvements.

119.60 Real property. (1) If any real property within the city which is used for school purposes is sold, the proceeds of the sale shall not go into the general city fund but shall become part of the school construction fund to be applied on the purchase of real property for school purposes.

(2) City-owned property used for school purposes shall be sold by the city upon written request of the board if the common council adopts a resolution approving the sale. If, within 12 months after a written request by the board, the city has not disposed of the property, has failed to obtain a written agreement to dispose of the property or has not provided the board with a written report giving specific reasons, which are not identified by the city attorney as constituting a conflict of interest, for its failure to dispose of the property or to obtain an agreement to dispose of the property, the board

may retain a real estate agent to represent the board in its real estate transactions.

(3) The board's authority to retain a real estate agent under sub. (2) is limited to the actual sale of property. The board may compensate the real estate agent for his or her services only on the basis of a commission for specific property sold, and no property taxes may be levied for the purpose of providing funds to pay such commissions.

(4) The city is not liable for any action of the board or its real estate agent in the sale of property under this section.

History: 1983 a. 224

119.62 Loans for reconstruction or replacement. Upon the request of the board, the common council of the city may negotiate and make a loan in such amount as the board requests for the purpose of the reconstruction of any school building destroyed, in whole or in part, in any manner and for the purpose of purchasing replacements for lost or damaged equipment or supplies. The interest on such a loan shall not exceed 6% per year. The board shall discharge such debt, in such yearly sums as are agreed upon at the time of making the loan, out of any funds at the disposal of the board. The loan shall be an obligation of the city, payable only by the board out of school funds.

119.66 Interest in contracts forbidden. During the term for which elected or appointed and for 2 years after the expiration of the term, no member of the board may be employed by the board or by the department of employe trust funds in any capacity for which a salary or

emolument is provided by the board or the department of employe trust funds. No board member, superintendent of schools, assistant superintendent, secretary-business manager, other assistant, teacher or other employe of the board may have any interest in the purchase or sale of property by the city for the use or convenience of the schools. No contract made in violation of this section is valid. Any consideration paid by the city for a purchase or sale prohibited by this section may be recovered in an action at law in the name of the city. Any person violating this section shall be removed from any position held under this chapter.

History: 1981 c. 96

119.68 Claims against the city or board. (1) All claims against the city or board shall be audited for sufficiency of funds by the auditing officer of the city. The secretary-business manager shall furnish the auditing officer of the city, a complete list of the claims. Before a warrant is issued therefor, the auditing officer of the city shall countersign it. Within 20 days after each regular or special meeting of the board at which salaries and accounts are voted on and allowed, the secretary-business manager shall make and file with the auditing officer of the city, statements of the condition of the funds for the support of the schools and of the financial transactions of the board during the period next preceding any such statement.

(2) No action may be brought or maintained against the school upon a claim or cause of action unless the claimant complies with s. 893.80.

History: 1971 c. 40, 291; 1977 c. 285; 1979 c. 323 s. 33.