

CHAPTER 19

GENERAL DUTIES OF PUBLIC OFFICIALS

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SUBCHAPTER I

OFFICIAL OATHS AND BONDS

19.01 Oaths and bonds. (1) FORM OF OATH. Every official oath required by section 28 of Article IV of the constitution or by any statute shall be in writing, subscribed, sworn to, and except as provided otherwise by ss. 256.02 and 256.29, shall be in substantially the following form:

STATE OF WISCONSIN,

County of

I, the undersigned, who have been elected (or appointed) to the office of, but have not yet entered upon the duties thereof, swear (or affirm) that I will support the constitution of the United States and the constitution of the state of Wisconsin, and will faithfully discharge the duties of said office to the best of my ability. So help me God.

.....
Subscribed and sworn to before me this day of, 19..

..... (Signature)

(1m) FORM OF ORAL OATH. If it is desired to administer the official oath orally in addition to the written oath prescribed above, it shall be in substantially the following form:

I,, swear (or affirm) that I will support the constitution of the United States and the constitution of the state of Wisconsin, and will

faithfully and impartially discharge the duties of the office of to the best of my ability. So help me God.

(2) FORM OF BOND. (a) Every official bond required of any public officer shall be in substantially the following form:

We, the undersigned, jointly and severally, undertake and agree that, who has been elected (or appointed) to the office of, will faithfully discharge the duties of his said office according to law, and will pay to the parties entitled to receive the same, such damages, not exceeding in the aggregate dollars, as may be suffered by them in consequence of his failure so to discharge such duties.

Dated, 19..

..... (Principal)

..... (Surety)

(b) Any further or additional official bond lawfully required of any public officer shall be in the same form and it shall not affect or impair any official bond previously given by him for the same or any other official term. Where such bond is in excess of the sum of \$25,000, the officer may give 2 or more bonds.

(2m) EFFECT OF GIVING BOND. Any bond purportedly given as an official bond by a public officer, of whom an official bond is required, shall be deemed to be an official bond and shall be deemed as to both principal and surety to contain all the conditions and provisions required in sub. (2), regardless of its form or

wording, and any provisions restricting liability to less than that provided in sub. (2) shall be void.

(3) OFFICIAL DUTIES DEFINED. The official duties referred to in subs. (1) and (2) include performance to the best of his ability by the officer taking the oath or giving the bond of every official act required; and the nonperformance of every act forbidden, by law to be performed by him; also, similar performance and nonperformance of every act required of or forbidden to him in any other office which he may lawfully hold or exercise by virtue of his incumbency of the office named in his official oath or bond. Except as provided otherwise by s. 59.22 (3) and (4) the duties mentioned in any such oath or bond include the faithful performance by all persons appointed or employed by such officer either in his principal or his said subsidiary office, of their respective duties and trusts therein.

(4) WHERE FILED. Official oaths and bonds shall be filed:

(a) In the office of the secretary of state: Of all members and officers of the legislature; of the governor, lieutenant governor and state superintendent; of the justices, reporter and clerk of the supreme court; of the judges and reporters of the circuit and county courts; of all notaries public; of every officer, except the secretary of state, state treasurer and attorney general, whose compensation is paid in whole or in part out of the state treasury, including every member or appointee of a board or commission whose compensation is so paid; and of every deputy or assistant of an officer who files with the secretary of state;

(b) In the executive office: Of the secretary of state, state treasurer and attorney general;

(c) In the office of the clerk of the circuit court of any county: Of the county judge, of all court commissioners, of all family court commissioners, of all municipal justices, and of all other judges or judicial officers elected or appointed in and for such county, or whose jurisdiction is limited thereto;

(d) In the office of the county clerk of any county: Of all county officers elected or appointed in and for such county, other than those enumerated in par. (c), and of all officers whose compensation is paid out of the treasury of such county. The members of the governing board, and the superintendent and other officers of any joint county school, county hospital, county sanatorium, county asylum or other joint county institution shall file in the county in which the buildings of such institutions are located;

(dd) All bonds specified in pars. (c) and (d) and all bonds of any county employe required by

statute or county ordinance to be bonded, shall be approved by the district attorney as to amount, form and execution before such bonds shall be accepted for filing. The clerk of the circuit court and the county clerk respectively shall notify in writing the county board or chairman thereof within 5 days after the entry of any judicial or county officer specified in pars. (c) and (d) upon his term of office or after any county employe required to be bonded has entered upon his employment, stating whether or not the required bond has been furnished, and such notice shall be published with the proceedings of the county board.

(e) In the office of any town clerk: Of all officers elected or appointed in and for such town except the town clerk who shall file in the office of the town treasurer;

(f) In the office of any city clerk: Of all officers elected or appointed in and for such city except the city clerk who shall file in the office of the city treasurer;

(g) In the office of any village clerk: Of all officers elected or appointed in and for such village, except the village clerk who shall file in the office of the village treasurer;

(h) The official oath and bond of any officer of a school district or of an incorporated school board shall be filed with the clerk of such school district or the clerk of such incorporated school board.

(j) With the secretary of a vocational, technical and adult education district: Of all members of the district board of such district.

(5) TIME OF FILING. Every public officer required to file an official oath or an official bond shall file the same before entering upon the duties of his office; and when both are required, both shall be filed at the same time.

(6) CONTINUANCE OF OBLIGATION. Every such bond continues in force and is applicable to official conduct during the incumbency of the officer filing the same and until his successor is duly qualified and installed.

(7) INTERPRETATION. This section shall not be construed as requiring any particular officer to furnish or file either an official oath or an official bond. It is applicable to such officers only as are elsewhere in these statutes or by the constitution or by special, private or local law required to furnish such an oath or bond. Provided, however, that whether otherwise required by law or not, an oath of office shall be filed by every member of any board or commission appointed by the governor, and by every administrative officer so appointed, also by every secretary and other chief executive officer appointed by such board or commission.

(8) PREMIUM ON BOND ALLOWED AS EXPENSE. The state and any county, town, village,

city or school district may pay the cost of any official bond furnished by an officer or employe thereof pursuant to law or any rules or regulations requiring the same if said officer or employe shall furnish a bond with a licensed surety company as surety, said cost not to exceed the current rate of premium per annum. The cost of any such bond to the state shall be charged to the proper expense appropriation.

History: 1971 c. 154

19.015 Actions by the state, municipality or district. Whenever the state or any county, town, city, village, school district or vocational, technical and adult education district is entitled to recover any damages, money, penalty or forfeiture on any official bond, the attorney general, county chairman, town chairman, mayor, village president, school board president or vocational, technical and adult education district board chairman, respectively, shall prosecute or cause to be prosecuted all necessary actions in the name of the state, or such municipality, against the officer giving such bond and his sureties for the recovery of such damages, money, penalty or forfeiture.

History: 1971 c. 154

19.02 Actions by individuals. Any person injured by the act, neglect or default of any officer, except the state officers, his deputies or other persons which constitutes a breach of the condition of the official bond of such officer, may maintain an action in his own name against such officer and his sureties upon such bond for the recovery of any damages he may have sustained by reason thereof, without leave and without any assignment of any such bond.

19.03 Security for costs; notice of action.

(1) Every person commencing an action against any officer and sureties upon an official bond, except the obligee named therein, shall give security for costs by an undertaking as prescribed in s. 814.28 (3), and a copy thereof shall be served upon the defendants at the time of the service of the summons. In all such actions if final judgment is rendered against the plaintiff the same may be entered against the plaintiff and the sureties to such undertaking for all the lawful costs and disbursements of the defendants in such action, by whatever court awarded.

(2) The plaintiff in any such action shall, within 10 days after the service of the summons therein, deliver a notice of the commencement of such action to the officer who has the legal custody of such official bond, who shall file the same in his office in connection with such bond.

History: Sup Ct order, 67 W (2d) 773; 1975 c. 218

19.04 Other actions on same bond. No action brought upon an official bond shall be barred or dismissed by reason merely that any former action shall have been prosecuted on such bond, but any payment of damages made or collected from the sureties or any of them on any judgment in an action previously begun by any party on such bond shall be applied as a total or partial discharge of the penal sum of such bond, and such defense or partial defense may be pleaded by answer or supplemental answer as may be proper. The verdict and judgment in every such action shall be for no more than the actual damages sustained or damages, penalty or forfeiture awarded, besides costs. The court may, when it shall be necessary for the protection of such sureties, stay execution on any judgment rendered in such actions until the final determination of any actions so previously commenced and until the final determination of any other action commenced before judgment entered in any such action.

19.05 Execution; lien of judgment. Whenever a judgment shall be rendered against any officer and his sureties on his official bond in any court other than the circuit court of the county in which such official bond is filed, no execution for the collection thereof shall issue from such other court unless the plaintiff therein, his agent or attorney shall make and file with such court an affidavit showing that no other judgment has been rendered in any court in an action upon such bond against the sureties therein which remains in whole or in part unpaid and that no other action upon such bond against said sureties was pending and undetermined in any other court at the time of the entry of such judgment; but every such judgment may be docketed in other courts and in other counties, shall constitute a lien, and may be enforced, in all respects the same as if it were an ordinary judgment, for the recovery of money, except as provided otherwise in this section.

19.06 Sureties, how relieved. Whenever several judgments shall be recovered against the sureties on any official bond in actions which shall have been commenced before the date of the entry of the last of such judgments the aggregate of which, exclusive of costs, shall exceed the sum for which such sureties remain liable at the time of the commencement of such actions, they may discharge themselves from all further liability upon such judgments by paying into court the sum for which they are then liable, together with the costs recovered on such judgments; or the court may, upon motion supported by affidavit, order that no execution for more than a pro rata share of such judgments

shall be issued thereon against the property of such sureties or either of them and that upon payment or collection of such pro rata share they shall be discharged from the judgment or judgments upon which such pro rata share shall be paid or collected. When the money is paid into court by the sureties as above specified the same, exclusive of the costs so paid in, shall be distributed by an order of the court to the several plaintiffs in such judgments in proportion to the amount of their respective judgments. But every judgment shall have precedence of payment over all judgments in other actions commenced after the date of the recovery of such judgment.

19.07 Bonds of public officers and employees. (1) CIVIL SERVICE EMPLOYEES; BLANKET BONDS. (a) The surety bond of any civil service employe of a county, city or village may be canceled in the manner provided by sub. (3).

(b) Any number of officers, department heads or employes may be combined in a schedule or blanket bond, where such bond is to be filed in the same place, and in the event such bond is executed by a corporate surety company, payment of the premium therefor is to be made from the same fund or appropriation prescribed ins. 19.01.

(2) CONTINUATION OF OBLIGATION. Unless canceled pursuant to this section, every such bond shall continue in full force and effect.

(3) CANCELLATION OF BOND. (a) Any county or city by their respective governing body may cancel such bond or bonds of any one employe or any number of employes by giving written notice to the surety by registered mail, such cancellation to be effective 15 days after receipt of such notice.

(b) When a surety, either personal or corporate, on such bond, shall desire to be released from such bond, he or it may give notice in writing that he or it desires to be released by giving written notice by registered mail, to the clerk of the respective county or city, and such cancellation shall be permitted if approved by the governing body thereof, such cancellation to be effective 15 days after receipt of such notice. This section shall not be so construed as to operate as a release of the sureties for liabilities incurred previous to the expiration of said 15 days' notice.

(c) Whenever a surety bond is canceled in the manner provided by this section, a pro rata refund shall be made of the premium paid thereon.

19.10 Oaths. Each of the officers enumerated in s. 8.25 (4) (a) shall take and subscribe the oath of office prescribed by the constitution, as follows: The governor and lieutenant governor,

before entering upon the duties of his office; the secretary of state, treasurer, attorney general and state superintendent, within 20 days after receiving notice of his election and before entering upon the duties of his office.

19.11 Official bonds. (1) The secretary of state, treasurer and attorney general shall each furnish a bond to the state, at the time he takes and subscribes his oath of office, conditioned for the faithful discharge of the duties of his office, and his duties as a member of the board of commissioners of public lands, and in the investment of the funds arising therefrom. The bond of each of said officers shall be further conditioned for the faithful performance by all persons appointed or employed by him in his office of their duties and trusts therein, and for the delivery over to his successor in office, or to any person authorized by law to receive the same, of all moneys, books, records, deeds, bonds, securities and other property and effects of whatsoever nature belonging to his said offices.

(2) Each of said bonds shall be subject to the approval of the governor and shall be guaranteed by resident freeholders of this state, or by a surety company as provided in s. 632.17 (2). The amount of each such bond, and the number of sureties thereon if guaranteed by resident freeholders, shall be as follows: secretary of state, \$25,000, with sufficient sureties; treasurer, \$100,000, with not less than 6 sureties; and the attorney general, \$10,000, with not less than 3 sureties.

(3) The attorney general shall renew his bond in a larger amount and with additional security, and the treasurer shall give an additional bond, when required by the governor.

(4) The governor shall require the treasurer to give additional bond, within such time, in such reasonable amount not exceeding the funds in the treasury, and with such security as he shall direct and approve, whenever the funds in the treasury exceed the amount of the treasurer's bond; or whenever the governor deems the treasurer's bond insufficient by reason of the insolvency, death or removal from the state of any of the sureties, or from any other cause.

History: 1975c 375s.44.

SUBCHAPTER II

CUSTODY OF OFFICIAL PROPERTY

19.21 Custody and delivery of official property and records. (1) Each and every officer of the state, or of any county, town, city, village, school district, or other municipality or district, is the legal custodian of and shall safely

keep and preserve all property and things received from his predecessor or other persons and required by law to be filed, deposited, or kept in his office, or which are in the lawful possession or control of himself or his deputies, or to the possession or control of which he or they may be lawfully entitled, as such officers.

(2) Except as expressly provided otherwise, any person may with proper care, during office hours and subject to such orders or regulations as the custodian thereof prescribes, examine or copy any of the property or things mentioned in sub. (1). Any person may, at his own expense and under such reasonable regulations as the custodian prescribes, copy or duplicate any materials, including but not limited to blueprints, slides, photographs and drawings. Duplication of university expansion materials may be performed away from the office of the custodian if necessary.

(3) Upon the expiration of his term of office, or whenever his office becomes vacant, each such officer, or on his death his legal representative, shall on demand deliver to his successor all such property and things then in his custody, and his successor shall receipt therefor to said officer, who shall file said receipt, as the case may be, in the office of the secretary of state, county clerk, town clerk, city clerk, village clerk, school district clerk, or clerk or other secretarial officer of the municipality or district, respectively; but if a vacancy occurs before such successor is qualified, such property and things shall be delivered to and be receipted for by such secretary or clerk, respectively, on behalf of the successor, to be delivered to such successor upon the latter's receipt.

(4) Any person who violates this section shall, in addition to any other liability or penalty, civil or criminal, forfeit not less than \$25 nor more than \$2,000; such forfeiture to be enforced by a civil action on behalf of, and the proceeds to be paid into the treasury of the state, municipality, or district, as the case may be.

(5) (a) Any city council or village board may provide by ordinance for the destruction of obsolete public records. Prior to any such destruction at least 60 days' notice in writing of such destruction shall be given the historical society which shall preserve any such records it determines to be of historical interest. The historical society may, upon application, waive such notice. No assessment roll containing forest crop acreage may be destroyed without prior approval of the secretary of revenue.

(b) The period of time any city or village public record shall be kept before destruction shall be as prescribed by ordinance unless a specific period of time is provided by statute. The period prescribed in such ordinance shall be not

less than 2 years with respect to water stubs, receipts of current billings and customer's ledgers of any municipal utility, and 7 years for other records unless a shorter period has been fixed by the public records board pursuant to s. 16.61 (3) (e).

(c) Any city council or village board may also provide by ordinance for the keeping and preservation of public records by the use of microfilm or other reproductive device. Any photographic reproduction shall be deemed an original record for all purposes if it meets the standards established in s. 16.61 (7), so far as the same may be applicable.

(6) Counties having a population of 500,000 or more may provide by ordinance for the destruction of obsolete public records without regard to ss. 59.715 to 59.717 and may undertake a management of records service. The period of time any public record shall be kept before destruction shall be determined by ordinance except that the specific period of time expressed within s. 59.715 shall apply as to those records or documents. Prior to any destruction of records, except those specified within s. 59.715 as well as those having a confidential character as determined by the county, at least 60 days' notice of such destruction shall be given in writing, to the historical society, which may preserve any such records it determines to be of historical interest; however no notice need be given for any of the aforesaid class of records for which destruction has previously been approved by the historical society or in which it has indicated that it has no interest for historical purposes. The county board may also provide, by ordinance, a program for the keeping, preservation, retention and disposition of public records including the establishment of a committee on public records and may institute a record management service for the county and may appropriate funds to accomplish such purposes.

History: 1971 c. 215; 1975 c. 41 s. 52.

Examination of birth records cannot be denied simply because the examiner has a commercial purpose. 58 Atty. Gen. 67.

See note to 19.81, citing 60 Atty. Gen. 9.

Inspection of public records obtained under official pledges of confidentiality may be denied where a clear pledge has been made in order to obtain the information, where the pledge was necessary to obtain the information, and where the custodian determines that the harm to the public interest resulting from inspection would outweigh the public interest in full access to public records. Custodian must permit inspection of information submitted under an official pledge of confidentiality where the official or agency had specific statutory authority to require its submission. 60 Atty. Gen. 284.

Under (2) the right to examine and copy records of the division of motor vehicles relating to the licensing and regulation of motor vehicle dealers, distributors and manufacturers under ch. 218 is not absolute although there is a strong public policy favoring public inspection. Access may be denied where the custodian determines that harm to the public interest outweighs the presumptive benefits to the public interest which would be accorded by disclosure and gives specific reasons therefor. 60 Atty. Gen. 470.

The right to inspection and copying of public records in decentralized offices discussed 61 Atty Gen. 12

Public records subject to inspection and copying by any person would include list of students awaiting particular program in a VTAE district school. 61 Atty Gen. 297.

The investment board can only deny members of the public from inspecting and copying portions of the minutes relating to the investment of state funds and documents pertaining thereto on a case-by-case basis where valid reasons for denial exist and are specially stated. 61 Atty Gen. 361.

Matters and documents in the possession or control of school district officials containing information concerning the salaries, including fringe benefits, paid to individual teachers are matters of public record. 63 Atty Gen. 143.

Common school districts are presently without authority to destroy records which fall within (1) and which are not pupil records under 118.125 (1). Where city school district is involved, city council could by ordinance provide for destruction of obsolete school district records under (5) (a). Meaning of public records as related to school districts discussed 63 Atty Gen. 272.

Department of administration probably has authority under (1) and (2) to provide private corporation with camera-ready copy of session laws which is product of printout of computer stored public records if costs are minimal. State cannot contract on a continuing basis for the furnishing of this service. 63 Atty Gen. 202.

Scope of the duty of the governor to allow members of the public to examine and copy public records in his custody discussed 63 Atty Gen. 400.

Public's right to inspect land acquisition files of the department of natural resources and relationship with 66 77 discussed 63 Atty Gen. 573.

19.22 Proceedings to compel the delivery of official property.

(1) If any public officer refuses or neglects to deliver to his successor any official property or things as required in s. 19.21, or if such property or things shall come to the hands of any other person who refuses or neglects, on demand, to deliver the same to the successor in such office, such successor may make complaint thereof to any judge of a court of record for the circuit or county where the person so refusing or neglecting resides. If such judge be satisfied by the oath of the complainant and such other testimony as may be offered that any such property or things are withheld he shall grant an order directing the person so refusing to show cause before him, within some short and reasonable time, why he should not be compelled to deliver the same.

(2) At the time appointed, or at any other time to which the matter may be adjourned, upon due proof of service of such order, if the person complained against makes affidavit before such judge that he has delivered to such successor all the official property and things in his custody or possession pertaining to such office, within his knowledge, the person complained against shall be discharged and all further proceedings in the matter before such judge shall cease.

(3) If the person complained against does not make such affidavit the matter shall proceed as follows:

(a) The judge shall inquire further into the matters set forth in the complaint, and if it appears that any such property or things are withheld by the person complained against the judge shall by warrant commit him to the county

jail, there to remain until the delivery of such property and things to the complainant or until he be otherwise discharged according to law.

(b) If required by the complainant the judge shall also issue his warrant, directed to the sheriff or any constable of the county, commanding him in the daytime to search such places as shall be designated in such warrant for such official property and things as were in the custody of the officer whose term of office expired or whose office became vacant, or of which he was the legal custodian, and seize and bring them before the judge issuing such warrant.

(c) When any such property or things are brought before the judge by virtue of such warrant, he shall inquire whether the same pertain to such office, and if it thereupon appears that they pertain thereto he shall order their delivery to the complainant.

19.23 Transfer of records or materials to historical society.

(1) Any public records, in any state office, that are not required for current use may, in the discretion of the public records board, be transferred into the custody of the historical society, as provided in s. 16.61.

(2) The proper officer of any county, city, village, town, school district or other local governmental unit, may under s. 44.09 offer title and transfer custody to the historical society of any records deemed by the society to be of permanent historical importance.

(3) The proper officer of any court may, on order of the judge of that court, transfer to the historical society title to such court records as have been photographed or microphotographed or which have been on file for at least 75 years, and which are deemed by the society to be of permanent historical value.

(4) Any other articles or materials which are of historic value and are not required for current use may, in the discretion of the department or agency where such articles or materials are located, be transferred into the custody of the historical society as trustee for the state, and shall thereupon become part of the permanent collections of said society.

History: 1975 c. 41 s. 52.

19.24 Refusal to deliver money, etc., to successor.

Any public officer whatever, in this state, who shall, at the expiration of his term of office, refuse or wilfully neglect to deliver, on demand, to his successor in office, after such successor shall have been duly qualified and be entitled to said office according to law, all moneys, records, books, papers or other property belonging to said office and in his hands or under his control by virtue thereof, shall be imprisoned

not more than 6 months or fined not more than \$100.

19.25 State officers may require searches, etc., without fees. The secretary of state, treasurer and attorney general, respectively, are authorized to require searches in the respective offices of each other and in the offices of the clerk of the supreme court, of the several circuit courts, of the county courts or registers of deeds for any papers, records or documents necessary to the discharge of the duties of their respective offices, and to require copies thereof and extracts therefrom without the payment of any fee or charge whatever.

SUBCHAPTER III

CODE OF ETHICS FOR PUBLIC OFFICIALS

19.41 Declaration of policy. It is declared that high moral and ethical standards among state public officials are essential to the conduct of free government; that the legislature believes that a code of ethics for the guidance of state public officials will help them avoid conflicts of interest in public office, will improve standards of public service and will promote and strengthen the faith and confidence of the people of this state in their state public officials. It is the intent of the legislature that in its operations the board shall protect to the fullest extent possible the rights of individuals affected.

History: 1973 c 90; 1973 c 334 s 33

19.42 Definitions. In this subchapter:

(1) "Anything of value" means any gift, favor, service or promise of future employment, but does not include reasonable fees and honorariums, actual and necessary expenses authorized under s. 19.49 or the exchange of seasonal, anniversary or customary gifts among relatives and friends.

(2) "Board" means the ethics board.

(3) "Business" means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual or any other legal entity which engages in profit-making activities.

(4) "Candidate for state public office" means any person who files nomination papers and a declaration under s. 8.10 (5), 8.15 (4) (b) or 8.20 (6) for the purpose of appearing on the ballot for election as a state public official, any person nominated for state office in an election through the write-in process and who files a declaration under s. 8.10 (5) or 8.15 (4) (b), or any person who is nominated by the governor for appointment to state public office to serve as a

state public official and whose nomination is pending, but the term does not include candidates for the judiciary.

(5) "Department" means any office, department or independent agency created under ch. 14 or 15.

(6) "Immediate family" means any individual related to a state public official or a person appointed by the governor with the advice and consent of the senate as husband, wife or legal dependent.

(7) "Significant fiduciary relationship" means owning or controlling, directly or indirectly, at least 10% or \$5,000 of the outstanding stock of or at least 10% or \$5,000 of any business.

(8) "State public official" means all persons appointed by the governor with the advice and consent of the senate, except trustees of any private higher educational institution receiving state appropriations, and all persons identified under s. 20.923, except officers and employes of the judiciary, trustees and employes of the investment board and teaching personnel of the university of Wisconsin system.

History: 1973 c 90, 333; 1973 c 334 ss 33, 57.

19.43 Financial disclosure. (1) All state public officials shall file the initial statement of economic interests within a time period specified by the board.

(2) Within 21 days after a person becomes a candidate for state public office other than a judicial office, such person shall file a statement of economic interests with the secretary of state and the board.

(4) No person required to file a statement of economic interests under this section may take the oath of office or receive his salary or compensation until he files such statement of economic interests.

(6) Each person required to file a statement under sub. (1) shall file updated statements no later than April 30 of each year.

History: 1973 c 90, 333; 1973 c 334 s 33.

19.44 Form of statement. (1) The person filing any statement of economic interests required under this subchapter shall file the statement on a form prescribed by the board, and shall supply the following information to the board:

(a) The identity of every significant fiduciary relationship as of the date the statement is prepared and offices and directorships, held by him or a member of his immediate family.

(b) The identity and amount of bonds, debentures or debt obligations of a municipal corporation or other corporation in excess of \$5,000 held by him or his immediate family.

(c) The name of any creditor to whom he or a member of his immediate family owes \$3,000 or more, and the amount owed.

(2) The board, during an investigation of a verified complaint, may request the department of revenue to forward copies of state income tax returns and to provide access to appropriate information under s. 71.11 (44) regarding all persons required to file economic interest statements under s. 19.43, for the purpose of implementing this subchapter.

History: 1973 c. 90; 1973 c. 334 ss. 33, 57, 58.

19.45 Code of ethics. (1) The legislature hereby reaffirms that a state public official holds his position as a public trust, and any effort to realize personal gain through official conduct is a violation of that trust. This subchapter shall not prevent any legislator, state public official or state public employe from accepting other employment or following any pursuit which in no way interferes with the full and faithful discharge of his duties to this state. The legislature further recognizes that in a representative democracy, the representatives are drawn from society and, therefore, cannot and should not be without all personal and economic interest in the decisions and policies of government; citizens who serve as state public officials or state public employes retain their rights as citizens to interests of a personal or economic nature; standards of ethical conduct for state public employes and state public officials need to distinguish between those minor and inconsequential conflicts that are unavoidable in a free society, and those conflicts which are substantial and material; and that state public officials may need to engage in employment, professional or business activities, other than official duties, in order to support their families and to maintain a continuity of professional or business activity, or may need to maintain investments, which activities or investments do not conflict with the specific provisions of this subchapter.

(2) No state public official may use his public position or office to obtain financial gain for himself or his immediate family, or for any business with which he is associated.

(3) No person may offer to give to a state public official or his immediate family, and no state public official or his immediate family may solicit or receive anything of value pursuant to an understanding that such state public official's vote, official actions or judgment would be influenced thereby.

(4) No state public official may use or disclose confidential information gained in the course of or by reason of his official position or activities in any way that could result in financial gain for himself or for any other person.

(5) No state public official may use or attempt to use his public position to influence or gain unlawful benefits, advantages or privileges for himself or others.

(6) No state public official may offer or give to a member or employe of a department, and no member or employe of a department may solicit or accept from any such person, anything of value, while the member or employe is associated with the department.

(7) No state public official and no business with which he has a significant fiduciary relationship may enter into any contract with a department which is to be paid in whole or in part out of state funds unless the contract has been awarded through a process of public notice and competitive bidding under s. 16.75 (1).

(8) No state public official and no business in which a state public official has a 10% or greater interest may enter into a lease of real property with this state, except that the board upon request may waive this subsection where it is in the best interests of this state.

(9) The attorney general shall not engage in the private practice of law during the period in which he holds that office.

(10) This section shall not be construed to prohibit a legislator from making inquiries for information on behalf of or representing a person before a department.

(11) The legislature recognizes that all state public officials should be guided by a code of ethics and thus:

(a) The director of the bureau of personnel shall adopt rules to implement a code of ethics consistent with this subchapter for classified and unclassified state employes not included in s. 20.923, except university of Wisconsin system teaching personnel.

(b) The board of regents of the university of Wisconsin system shall establish a code of ethics for teaching personnel in the system.

(c) Counties and municipalities may and should establish a code of ethics for local public officials.

History: 1973 c. 90; 1973 c. 334 ss. 33, 57.

19.46 Action upon conflict. (1) (a) If any state public official who, in the discharge of his official duties, is required to take an action that is prohibited by this subchapter, and would result in a conflict of interest, such state public official:

1. Shall not take such action.

2. Shall prepare a written statement describing the matter requiring action or decision, and the nature of the possible conflict of interest with respect to such action or decision.

3. Shall deliver copies of such statement to the board and to his immediate superior, if any.

4. In the case of a legislator, may deliver a copy of such statement to the presiding officer of the legislator's house. The presiding officer shall cause such statement to be printed in the journal and, upon request, shall excuse a legislator from votes, deliberations and other actions on the matter on which a possible conflict exists.

(b) If the state public official is not a legislator, his superior, if any, shall assign the matter to another employe who does not have a possible conflict of interest. If the state public official has no immediate superior, he may seek advice from the board to remove himself from influence over actions and decisions on the matter on which the possible conflict exists.

(2) The board shall review the statement describing the matter requiring action or decision and the nature of the possible conflict of interest, and may advise the state public official. Any person subject to this subchapter may request of the board written advice regarding the propriety of any matter to which the person is or may become a party. The board may authorize the executive director to act in its stead in instances where delay is of substantial inconvenience or detriment to the requesting party. Written advice issued under this subsection shall be confidential except that it may be included in materials referred to the appropriate body under s. 19.48 (10) (b) or may be subpoenaed by any court of record or legislative committee or house. No person except the person who initially requested preparation of the statement may make the contents of any written advice or other records of the board public. It shall be prima facie evidence of intent to comply with this subchapter when a person refers a matter to the board and abides by the written advice.

(3) A state public official may request the board to obtain an advisory opinion from the attorney general on the application of this chapter to a given set of circumstances, real or hypothetical, or the board may request such an opinion on its own motion.

(4) Nothing in this section prohibits a legislator from making decisions concerning reimbursement of legislator expenses, salaries or salary-related benefits.

(5) The board may issue guidelines that shall be published as a class 1 notice under ch. 985.

History: 1973 c. 90; 1973 c. 334 ss. 33, 57, 58; 1975 c. 422.

19.47 Operation. (1) The office of the board shall be in Madison, but the board may, after proper public notice and in compliance with subch. IV of ch. 19, meet or exercise any or all of its powers at any other place in this state.

(2) The board shall appoint an executive director and such personnel as it requires to carry out its duties. The executive director shall

perform such duties as the board assigns to him in the administration of this subchapter.

(3) All members and employes of the board shall file statements required by this subchapter.

(4) Any action by the board shall require the affirmative vote of 4 of its members.

(5) No later than September 1 of each year, the board shall report to the legislature and the governor concerning its actions in the preceding fiscal year, including a summary of its determinations; the names and duties of all persons employed by the board; and shall make such further reports on the matters within its jurisdiction and such recommendations for further legislation as it deems desirable. The report shall contain the current and complete text of all guidelines issued by the board.

History: 1973 c. 90; 1973 c. 334 ss. 33, 57; 1975 c. 426 s. 3.

19.48 Duties of the board. (1) The board shall:

(a) Adopt guidelines and procedures necessary to carry out this subchapter. The board shall give prompt notice of the contents of such guidelines and procedures to state public officials affected thereby.

(b) Prescribe forms for statements required to be filed by this subchapter, and furnish such forms to persons required to file such statements.

(c) Prepare and publish guidelines setting forth recommended uniform methods of reporting for use by persons required to file under this subchapter.

(d) Accept and file any information voluntarily supplied that exceeds the requirements of this subchapter.

(e) Preserve the statements filed with it for a period of 6 years from the date of receipt in such form, including microfilming, as will facilitate document retention.

(2) The joint committee on legislative organization shall be advisory to the board on all matters relating to the operation of the board.

(3) The board shall:

(a) Accept from any person, or make upon its own motion, a verified complaint in writing which shall state the name of the state public official or state public employe alleged to have committed a violation of this subchapter and which shall set forth the particulars thereof. The board shall forward within 10 days a copy of the complaint to the state public official or state public employe who is accused. If no action on the verified complaint is taken by the board within 6 months, the complaint shall be void.

(b) Following the receipt or motion of a verified complaint, the board may make preliminary investigations with respect to alleged violation of this subchapter. No preliminary investigation of the activities of any state

public official may be initiated unless such state public official is notified in writing. The notice shall state the exact nature and purpose of the investigation, the individual's specific actions or activities to be investigated and a statement of such person's due process rights. After the preliminary investigation, the executive director shall prepare a staff recommendation to the board for further action.

(c) If, after such recommendation and investigation, the board finds that probable cause exists for believing the allegations of the complaint, it shall conduct a hearing on the matter which shall be held not more than 30 days after such finding. The board shall give the accused at least 20 days' notice of the hearing date. Such hearings shall be at closed session unless the accused petitions for a hearing open to the public. The rules of criminal evidence shall apply to such hearings. All evidence, including certified copies of records and documents which the board considers, shall be fully offered and made part of the record in the case. Every party shall be afforded adequate opportunity to rebut or offer countervailing evidence.

(4) The board shall have the same power to compel the attendance of witnesses and to issue subpoenas and summary process as is granted to legislative committees under ss. 13.31 and 13.32. Upon request of the accused, the board shall subpoena named individuals to appear as witnesses at the hearing, if such action is necessary to compel their attendance.

(5) (a) During all stages of any investigation or proceeding conducted under this section, the accused or any person whose activities are under investigation shall be entitled to be represented by counsel of his own choosing. Prior to any hearing conducted under sub. (3) (c), the accused shall be permitted to challenge the sufficiency of any complaint brought against him and shall be afforded full discovery rights, including adverse examination of witnesses who will testify at the hearing. The board shall immediately disclose and forward to the accused or his counsel exculpatory evidence of any nature discovered by the board through its own investigation or by any other means.

(b) The accused or his representative shall have an adequate opportunity to examine all documents and records to be used at the hearing under sub. (3) (c) at a reasonable time before the date of the hearing as well as during the hearing, to bring witnesses, to establish all pertinent facts and circumstances, and to question or refute any testimony or evidence, including opportunity to confront and cross-examine adverse witnesses.

(c) Investigations conducted under this section shall be approved by the board prior to

the expenditure of any funds from the appropriation under s. 20.521 (1) (b). These expenses shall include payment of all fees and charges incurred during the course of an investigation.

(6) After the hearing the board shall, in written findings of fact and conclusions based thereon, make a determination whether or not probable cause exists concerning any misconduct by the accused constituting a violation of this subchapter. If the board determines that no probable cause exists, it shall immediately send written notice of such determination to the accused and to the party who made the complaint. If the board determines that probable cause for misconduct exists, it shall refer the matter for appropriate prosecution to the district attorney in whose jurisdiction the alleged violation occurred. In making such referral, the board shall supply the district attorney with a written statement of its determination, as well as with such documents as it decides to release under sub. (10), but the board's statement of determination shall not be admissible as evidence in any court. If the district attorney fails to commence prosecution within 30 days, the board may notify the attorney general for appropriate action. The board shall give written notice of its action to the accused.

(8) In addition to the referrals in sub. (6), the board shall, if it finds probable cause concerning any misconduct by a state public official or state public employe constituting a violation of this subchapter, submit such determination and copies of any records, reports and transcripts in its possession, together with any other relevant evidence:

(a) In the case of a legislator, to the appropriate house.

(b) In the case of a state public official or state public employe in the unclassified service in the executive branch of state government, to the appointing authority who may censure, suspend or remove him from office or employment.

(c) In the case of an employe in the unclassified service in the legislative branch of state government, to his appointing authority which may censure, suspend or remove him from office or employment.

(9) The board shall refer complaints concerning violation by a public official liable to impeachment to the assembly.

(10) (a) The board shall maintain a record of its investigations, inquiries and proceedings. Except for the determination provided in sub. (6), all records, transcripts of any investigations or inquiries of the board under this section shall be confidential and shall not be open to inspection by any person other than a member or employe of the board, or a state employe designated to assist the board.

(b) If the board finds probable cause for misconduct, it shall authorize the release to the district attorney, the attorney general or other official of any information, records, complaints, documents, reports and transcripts in its possession if such release is material to any matter being investigated or prosecuted by the district attorney or the attorney general. The accused state public official or state public employe cited by the declaration of probable cause may request the board to withhold any information, records, documents, reports and transcripts that were placed before the board on behalf of the accused or as a part of his defense. The board shall grant such a request.

(c) No member or employe of the board, no state employe designated to assist the board and no prosecuting officer or employe may divulge any matter deemed confidential by this subsection.

(d) This subsection shall not prohibit the exchange of confidential information between the attorney general and district attorney's office.

History: 1973 c 90, 333; 1973 c 334 ss 33, 57; 1975 c 41.

19.49 Public discussion of legislative issues; expenses. (1) Nothing in this subchapter shall be interpreted as prohibiting the acceptance by a legislator of reimbursement for his actual and necessary expenses, the accepting of reasonable fees or honorariums for participating in public meetings or speaking engagements, or from accepting compensation for published works.

(2) In order to achieve the broadest possible public discussion and understanding of state government, the legislative process and the specific policy issues and proposals pending before the legislature, every member of the legislature is encouraged to address, or to meet with, clubs, conventions, special interest groups, political groups, schools and other gatherings, and to interpret these topics for, or discuss them with, interested persons and organizations. When addressing any such club, gathering or organization within his district or within this state, no member of the legislature may receive any compensation other than reimbursement for actual and necessary expenses and reasonable fees and honorariums.

(3) The board shall issue guidelines determining what amounts of fees or honorariums, if received by legislators under sub. (1), shall be reasonable.

(4) Any legislator who, under sub. (2), receives reimbursement for actual and necessary expenses in connection with any such engagement in excess of \$10 shall, within 60 days of its receipt, report the amount of the expense

reimbursement received to the chief clerk of his house together with a brief statement describing the purpose for which the expense reimbursement was received.

History: 1973 c 90; 1973 c 334 ss 33, 57.

19.50 Penalties. (1) Any person who violates this subchapter or a code of ethics adopted or established under s. 19.45 (11) (a) or (b) shall be fined not less than \$100 nor more than \$5,000 or imprisoned not more than one year in the county jail or both.

(2) The penalty under sub. (1) does not limit the power of either house of the legislature to discipline its own members or to impeach a public official, or limit the power of a department to discipline its state public officials or state public employes.

(3) No prosecution for a violation of this subchapter may be commenced more than 3 years after the date of the complaint under s. 19.48 (3) (a).

History: 1973 c 90; 1973 c 334 ss 33, 57, 58; 1975 c 200

SUBCHAPTER IV

OPEN MEETINGS OF GOVERNMENTAL BODIES

19.81 Declaration of policy. (1) In recognition of the fact that a representative government of the American type is dependent upon an informed electorate, it is declared to be the policy of this state that the public is entitled to the fullest and most complete information regarding the affairs of government as is compatible with the conduct of governmental business.

(2) To implement and ensure the public policy herein expressed, all meetings of all state and local governmental bodies shall be publicly held in places reasonably accessible to members of the public and shall be open to all citizens at all times unless otherwise expressly provided by law.

(3) In conformance with article IV, section 10 of the constitution, which states that the doors of each house shall remain open, except when the public welfare requires secrecy, it is declared to be the intent of the legislature to comply to the fullest extent with this subchapter.

(4) This subchapter shall be liberally construed to achieve the purposes set forth in this section, and the rule that penal statutes must be strictly construed shall be limited to the enforcement of forfeitures and shall not otherwise apply to actions brought under this subchapter or to interpretations thereof.

History: 1975 c 426.

Revisor's Note, 1975: The following annotations relate to 66.77, repealed by Chapter 426, laws of 1975.

A regular open meeting, held subsequent to a closed meeting on another subject, does not constitute a reconvened open meeting where there was no prior open meeting on that day. 58 Atty Gen. 41.

Consideration of a resolution is formal action of an administrative or minor governing body and when taken in proper closed session, the resolution and result of vote must be made available for public inspection, pursuant to 19.21, absent specific showing that the public interest would be adversely affected. 60 Atty Gen. 9.

Subsequent to the presentation of evidence by the taxpayer, board of review consideration of testimony by the village assessor at an executive session was contrary to the open meeting law, 66.77, since although it was permissible for the board to convene a closed session for the purpose of deliberating after a quasi-judicial hearing, the proceedings did not constitute mere deliberations but were a continuation of the quasi-judicial hearing without the presence of or notice to the objecting taxpayer. *Dolphin v. Board of Review*, 70 W (2d) 403, 234 NW (2d) 277.

A regular open meeting, held subsequent to a closed meeting on another subject, does not constitute a reconvened open meeting where there was no prior open meeting on that day. 58 Atty Gen. 41.

Consideration of a resolution is formal action of an administrative or minor governing body and when taken in proper closed session, the resolution and result of vote must be made available for public inspection, pursuant to 19.21, absent specific showing that the public interest would be adversely affected. 60 Atty Gen. 9.

Joint apprenticeship committees, appointed pursuant to 4 Wis. Adm. Code, sec. Ind 85.02, are governmental bodies within the meaning of 66.77 (2) (c) and subject to the requirements of the open meeting law. 63 Atty Gen. 363.

Voting procedures employed by workmen's compensation and unemployment advisory councils which utilize adjournment of public meeting for purposes of having members representing employers and members representing employes or workers to separately meet in closed caucuses and to vote as a block on reconvening are contrary to 66.77 and 15.09 (4), (5). 63 Atty Gen. 414.

Governmental body can call closed sessions for proper purpose without giving notice to members of news media who have filed written request under 66.77 (2) (e). 63 Atty Gen. 470.

Meaning of communication in 66.77 (2) (e) discussed with reference to giving the public and news media members adequate notice. 63 Atty Gen. 509.

Posting in Governor's office of agenda of future investment board meetings is not sufficient communication under 66.77 (2) (e) to the public or the news media who have filed a written request for notice. 63 Atty Gen. 549.

Under 66.77 (6), a county board may not utilize unidentified paper ballot in voting to appoint county highway commissioner, but may vote by ayes and nays or show of hands at open session if some member does not require vote to be taken in such manner that the vote of each member may be ascertained and recorded. 63 Atty Gen. 569.

See note to 19.21, citing 63 Atty Gen. 573.

19.82 Definitions. As used in this subchapter:

(1) "Governmental body" means a state or local agency, board, commission, committee, council, department or public body corporate and politic created by constitution, statute, ordinance, rule or order; a governmental or quasi-governmental corporation; or a formally constituted subunit of any of the foregoing, but excludes any such body or committee or subunit of such body which is formed for or meeting for the purpose of collective bargaining under subch. IV or V of ch. 111.

(2) "Meeting" means the convening of members of a governmental body for the purpose of exercising the responsibilities, authority, power or duties delegated to or vested in the body. If one-half or more of the members of a

governmental body are present, the meeting is rebuttably presumed to be for the purpose of exercising the responsibilities, authority, power or duties delegated to or vested in the body. The term does not include any social or chance gathering or conference which is not intended to avoid this subchapter.

(3) "Open session" means a meeting which is held in a place reasonably accessible to members of the public and open to all citizens at all times.

History: 1975 c. 426.

19.83 Meetings of governmental bodies.

Every meeting of a governmental body shall be preceded by public notice as provided in s. 19.84, and shall be held in open session. At any meeting of a governmental body, all discussion shall be held and all action of any kind, formal or informal, shall be initiated, deliberated upon and acted upon only in open session except as provided in s. 19.85.

History: 1975 c. 426.

19.84 Public notice. (1) Public notice of all meetings of a governmental body shall be given in the following manner:

(a) As required by any other statutes; and

(b) By communication from the chief presiding officer of a governmental body or such person's designee to the public, to those news media who have filed a written request for such notice, and to the official newspaper designated under ss. 985.04, 985.05 and 985.06 or, if none exists, to a news medium likely to give notice in the area.

(2) Every public notice of a meeting of a governmental body shall set forth the time, date, place and subject matter of the meeting, including that intended for consideration at any contemplated closed session, in such form as is reasonably likely to apprise members of the public and the news media thereof.

(3) Public notice of every meeting of a governmental body shall be given at least 24 hours prior to the commencement of such meeting unless for good cause such notice is impossible or impractical, in which case shorter notice may be given, but in no case may the notice be provided less than 2 hours in advance of the meeting.

(4) Separate public notice shall be given for each meeting of a governmental body at a time and date reasonably proximate to the time and date of the meeting.

(5) Departments and their subunits in any university of Wisconsin system institution or campus are exempt from the requirements of subs. (1) to (4) but shall provide meeting notice which is reasonably likely to apprise interested

persons, and news media who have filed written requests for such notice.

(6) Notwithstanding the requirements of s. 19.83 and the requirements of this section, a governmental body which is a formally constituted subunit of a parent governmental body may conduct a meeting without public notice as required by this section during a lawful meeting of the parent governmental body, during a recess in such meeting or immediately after such meeting for the purpose of discussing or acting upon a matter which was the subject of that meeting of the parent governmental body. The presiding officer of the parent governmental body shall publicly announce the time, place and subject matter of the meeting of the subunit in advance at the meeting of the parent body.

History: 1975 c. 426.

19.85 Exemptions. (1) Any meeting of a governmental body, upon motion duly made and carried, may be convened in closed session under one or more of the exemptions provided in this section. The motion shall be carried by a majority vote in such manner that the vote of each member is ascertained and recorded in the minutes. No motion to convene in closed session may be adopted unless the chief presiding officer announces to those present at the meeting at which such motion is made, the nature of the business to be considered at such closed session, and the specific exemption or exemptions under this subsection by which such closed session is claimed to be authorized. Such announcement shall become part of the record of the meeting. No business may be taken up at any closed session except that which relates to matters contained in the chief presiding officer's announcement of the closed session. A closed session may be held for any of the following purposes:

(a) Deliberating after any judicial or quasi-judicial trial or hearing.

(b) Considering dismissal, demotion, licensing or discipline of any public employe or person licensed by a board or commission or the investigation of charges against such person, or considering the grant or denial of tenure for a university faculty member, and the taking of formal action on any such matter; provided that the faculty member or other public employe or person licensed is given actual notice of any evidentiary hearing which may be held prior to final action being taken and of any meeting at which final action may be taken. The notice shall contain a statement that the person has the right to demand that the evidentiary hearing or meeting be held in open session. This paragraph and par. (f) do not apply to any such evidentiary

hearing or meeting where the employe or person licensed requests that an open session be held.

(c) Considering employment, promotion, compensation or performance evaluation data of any public employe over which the governmental body has jurisdiction or exercises responsibility.

(d) Considering specific applications of probation or parole, or considering strategy for crime detection or prevention.

(e) Deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session.

(f) Considering financial, medical, social or personal histories or disciplinary data of specific persons, preliminary consideration of specific personnel problems or the investigation of charges against specific persons except where par. (b) applies which, if discussed in public, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such histories or data, or involved in such problems or investigations.

(g) Conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved.

(h) Consideration of requests for confidential written advice from the ethics board under s. 19.46 (2), or from any local government ethics board.

(2) No governmental body may commence a meeting, subsequently convene in closed session and thereafter reconvene again in open session within 12 hours after completion of the closed session, unless public notice of such subsequent open session was given at the same time and in the same manner as the public notice of the meeting convened prior to the closed session.

(3) Nothing in this subchapter shall be construed to authorize a governmental body to consider at a meeting in closed session the final ratification or approval of a collective bargaining agreement under subch. IV or V of ch. 111 which has been negotiated by such body or on its behalf.

History: 1975 c. 426.

19.86 Notice of collective bargaining negotiations. Notwithstanding s. 19.82 (1), where notice has been given by either party to a collective bargaining agreement under subch. IV or V of ch. 111 to reopen such agreement at its expiration date, the employer shall give notice of such contract reopening as provided in s. 19.84 (1) (b). If the employer is not a governmental body, notice shall be given by the employer's chief officer or such person's designee.

History: 1975 c. 426.

19.87 Legislative meetings. This subchapter shall apply to all meetings of the senate and assembly and the committees, subcommittees and other subunits thereof, except that:

(1) Section 19.84 shall not apply to any meeting of the legislature or a subunit thereof called solely for the purpose of scheduling business before the legislative body; or adopting resolutions of which the sole purpose is scheduling business before the senate or the assembly.

(2) No provision of this subchapter which conflicts with a rule of the senate or assembly or joint rule of the legislature shall apply to a meeting conducted in compliance with such rule.

(3) No provision of this subchapter shall apply to any partisan caucus of the senate or any partisan caucus of the assembly, except as provided by legislative rule.

History: 1975 c. 426.

19.88 Ballots, votes and records. (1) Unless otherwise specifically provided by statute, no secret ballot may be utilized to determine any election or other decision of a governmental body except the election of the officers of such body in any meeting.

(2) Except as provided in sub. (1) in the case of officers, any member of a governmental body may require that a vote be taken at any meeting in such manner that the vote of each member is ascertained and recorded.

(3) The motions and roll call votes of each meeting of a governmental body shall be recorded, preserved and open to public inspection to the extent prescribed in s. 19.21.

History: 1975 c. 426

19.89 Exclusion of members. No duly elected or appointed member of a governmental body may be excluded from any meeting of such body. Unless the rules of a governmental body provide to the contrary, no member of the body may be excluded from any meeting of a subunit of that governmental body.

History: 1975 c. 426.

19.96 Penalty. Any member of a governmental body who knowingly attends a meeting of such body held in violation of this subchapter, or who, in his or her official capacity, otherwise violates this subchapter by some act or omission shall forfeit without reimbursement not less than \$25 nor more than \$300 for each such violation. No member of a governmental body is liable under this subchapter on account of his or her attendance at a meeting held in violation of this

subchapter if he or she makes or votes in favor of a motion to prevent the violation from occurring, or if, before the violation occurs, his or her votes on all relevant motions were inconsistent with all those circumstances which cause the violation.

History: 1975 c. 426.

19.97 Enforcement. (1) This subchapter shall be enforced in the name and on behalf of the state by the attorney general or, upon the verified complaint of any person, by the district attorney of any county wherein a violation may occur. In actions brought by the attorney general, the court shall award any forfeiture recovered together with reasonable costs to the state; and in actions brought by the district attorney, the court shall award any forfeiture recovered together with reasonable costs to the county.

(2) In addition and supplementary to the remedy provided in s. 19.96, the attorney general or the district attorney may commence an action, separately or in conjunction with an action brought under s. 19.96, to obtain such other legal or equitable relief, including but not limited to a writ of mandamus, an injunction or a declaratory judgment, as may be appropriate under the circumstances.

(3) Any action taken at a meeting of a governmental body held in violation of this subchapter is voidable, upon action brought by the attorney general or the district attorney of the county wherein the violation occurred. However, any judgment declaring such action void shall not be entered unless the court finds, under the facts of the particular case, that the public interest in the enforcement of this subchapter outweighs any public interest which there may be in sustaining the validity of the action taken.

(4) If the district attorney refuses or otherwise fails to commence an action to enforce this subchapter within 20 days after receiving a verified complaint, the person making such complaint may bring an action under subs. (1) to (3) on his or her relation in the name, and on behalf, of the state. In such actions, the court may award actual and necessary costs of prosecution, including reasonable attorney fees to the relator if he or she prevails, but any forfeiture recovered shall be paid to the state.

History: 1975 c. 426.

19.98 Interpretation by attorney general. Any person may request advice from the attorney general as to the applicability of this subchapter under any circumstances.

History: 1975 c. 426.